

26.06.2023
Item No. 10
Court No.6.
S. De

**M.A.T. 1069 of 2023
with
I.A. No. CAN/1/2023**

**Saikat Chowdhury.
Vs
The State of West Bengal & Ors.**

Mr. Tulshi Das Ray,
Mr. Tirthankar Roy,
...for the appellant/writ petitioner.
Mr. Satyajit Talukder,
Ms. Piu Karmakar,
...for the K.M.D.A.
Mr. Biswabrata Basu Mallick, Ld. A.G.P.,
Mr. Sanjuib Das,
...for the State.

This appeal is directed against a judgment and order dated May 18, 2023, passed by a learned Single Judge whereby the appellant's writ petition being WPA 19495 of 2021 was disposed of.

The appellant says that the writ petition pertains to Group-VI. It pertains to Service under Kolkata Metropolitan Development Authority. Such a matter could not have been heard by the learned Judge who had determination to hear Group-V writ petitions.

It appears that the learned Judge was not properly assisted. The writ petition, in our view, pertains to Group-VI. The appellant/writ petitioner wrongly filed the writ petition before the learned Judge who has passed the order under appeal by wrongly

classifying the writ petition as a Group-V matter. We cannot help observing that the learned advocates of the appellant/writ petitioner should have been more careful.

However, since the learned Judge did not have determination to hear the writ petition, the order under appeal would be a nullity as per judgments of the Hon'ble Supreme Court as also a Division Bench of our Court. The order is set aside.

Learned advocate for the appellant seeks leave to withdraw the writ petition and file afresh on the self-same cause of action. Such leave is granted.

The appeal being MAT 1069 of 2023 is disposed of along with the application being I.A. No. CAN/1/2023.

The writ petition which revives as a result of this order is permitted to be withdrawn by the writ petitioner with liberty to file afresh on the self-same cause of action. The writ petition, accordingly, stands dismissed as withdrawn.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)