

20<sup>th</sup> June,  
2023  
(AK)  
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**W.P.A 13859 of 2023**

Debapriya Ghosh  
Vs.  
The State of West Bengal and others

Mr. Subhrangsu Panda  
...for the petitioner.

Mr. Somnath Ganguly  
Mr. Tanoy Chakraborty  
...for the State.

Mr. Raja Saha  
Mrs. Arpita Saha  
Mr. Sanjay Mukherjee  
...for the respondent no.4.

Despite service, none appears for the respondent no.2, although the respondent no.1 and the Second Appellate Authority are represented through counsel.

The grievance of the petitioner is that initially the petitioner applied for information before the first forum, that is, the respondent no.2 herein, under the Right to Information Act, 2005.

However, such information was not given on the ground that pursuant to an order of a coordinate Bench dated May 19, 2022 in a different matter, the CBI authority had taken over the possession and control of the data room of the office on that date.

It is argued that subsequently the said order of the coordinate Bench was modified, pursuant to which there was no further impediment for the respondent no. 2-authority to have access and furnish the information-in-question.

Accordingly, the petitioner preferred an appeal against the order of the respondent no.2 before the First Appellate Authority and thereafter had to move the Second Appellate Authority, having been unsuccessful before the First Appellate Authority.

However, the said second appeal has been unnecessarily kept pending for a long time.

Learned counsel for the Second Appellate Authority submits that there was no fault on the part of the said authority in occasioning any delay in the matter, since the said commission was lying vacant without any presiding officer for quite some time.

Be that as it may, the purpose of the petitioner would be sub-served earliest in the event the first authority is directed to take note of the alleged modification in the original order, on the basis of which the refusal was effected by the first authority issuing information.

In such view of the matter, on the consent of the petitioner not to proceed any further with the second appeal in the light of the above observations, WPA 13859

of 2023 is disposed of by treating the second appeal preferred by the writ petitioner to be infructuous and accordingly disposed of and directing the respondent no.2 to reconsider the prayer of the petitioner for furnishing information under the RTI Act, 2005 as sought by the petitioner, in the light of the modified order of the coordinate Bench, which was the impediment in giving the information to the petitioner in the first place.

For such purpose, the petitioner shall approach the respondent no.2 and the respondent no.2 shall act on a server copy of this order for the purpose of implementation of the same and re-decide the issue as raised by the petitioner in the light of the above observations, by giving an opportunity to the petitioner to produce a valid copy of the modification order of the coordinate Bench order dated May 19, 2022.

Such exercise, it is expected, shall be completed by the respondent no.2 within one month from the date of being approached by the petitioner.

This order shall be communicated by the petitioner to the respondent no.2 for the purpose of ensuring compliance.

It is made clear that the merits of the claims of the petitioner have not been gone into and it will be open to the respondent no.2 to decide the issue afresh in accordance with the above directions.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

**(Sabyasachi Bhattacharyya, J.)**