

10.04.2023

Court : 04
Item : 01
Matter : WPST
Status : Dal
Bench Id : 266048
Transcriber : NANDY

WPST 113 of 2022
with
CAN 1 of 2022

Amal Krishna Roy
Vs.
The State of West Bengal & Ors.

Mr. Suman Banerjee, Advocate
Mr. Nilanjan Pal, Advocate

.....for the Petitioner

Ms. Chaitali Bhattacharya, Advocate
Ms. Tuli Sinha, Advocate

.....for the State

The instant writ-petition was filed at the behest of the petitioner assailing an order dated 19.09.2022 whereby and whereunder the matter was directed to be listed for hearing on 15.12.2022.

It was contended before us that an interim order was passed by the Tribunal on 02.08.2022 staying the operation of the order of transfer which was not implemented for which an application being MA 104 of 2022 was taken out, the hearing whereof was postponed till 15.12.2022. It was contended that the moment the State-respondent are not respecting and/or obeying the interim order, the Tribunal ought to have shown alacrity in due implementation thereof and should not have postponed the hearing of the said application being MA 104 of 2022.

We have been informed by the learned Advocate for the State that the aforesaid interim order was challenged by the State-respondent in WPST 108 of 2022 and by an order dated 13.03.2023, the same was set aside and, therefore, there is no subsistence of an interim order. Naturally, the moment the interim order is vacated and/or set aside by this Court, the question of its implementation does not arise and, therefore, the application being MA 104 of 2022 become virtually infructuous.

On the last occasion i.e. on 15.03.2023, we directed the writ-petitioner to file a reply to the show-cause notice within two weeks. It is submitted by the learned Advocate for the petitioner that because of the medical emergency the reply could not be filed within the stipulated time.

It is further submitted that the reply has been filed on 06.04.2023 and, therefore, a protection is required to be given in this regard. Obviously, the period enshrined in the aforesaid show-cause notice expired which was extended by this Court with avowed object that valuable right to defend should not be defeated.

Considering the submission of the petitioner that a reply to the show-cause notice could not be filed within stipulated time due to medical emergency which, in fact, filed out of time, we direct the authorities to treat the same to have been filed within time and proceed in accordance with law. Since the real cause of action for the instant application has lapsed by virtue of a subsequent event, no further consideration is required in this writ-petition.

Accordingly, the writ-petition being **WPST 113 of 2022** is **dismissed as infructuous**. The connected application being **CAN 1 of 2022** also stands **disposed of**.

However, it is made clear that we had no occasion to go into the merit of the instant writ-petition and, therefore, none of the observations made hereinabove shall have any persuasive effect.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

