

23rd November,
2023
(AK)
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W.P.A. 24119 of 2023

Raja Satyajit Banerjee
Vs.
Bar Council of West Bengal and others

Mr. Pradip Kumar Tarafder
Mr. Sourav Sengupta
...for the petitioner.

Mr. Arabinda Chatterjee
Mr. P kr. Datta
Mr. Santanu Deb Roy
...for the respondent nos.1 & 4.

Mr. Avinash Kankani
...for the respondent no.3.

1. Learned senior counsel appearing for the respondent nos. 1 and 4 takes an objection at the outset as to maintainability of the writ petition, since an appeal under Section 37 of the Advocates Act is available to the petitioner against which a further appeal lies before the Supreme Court.

2. As such, it is submitted that the writ petition may not be entertained by this court.

3. Learned counsel for the petitioner submits that since there was no occasion for the petitioner to agree to any proposal of the complainant before the Bar Council

Disciplinary Committee; thus, the petitioner ought to have been given an opportunity of hearing before deciding against the petitioner.

4. Such opportunity, it is contended, was never given to the petitioner, thereby violating the principles of natural justice.

5. Even as per the Bar Council of India Rules, a copy of the order was to be circulated among the parties free of charge which has not been done within the stipulated time in the present case.

6. Learned senior counsel for the respondents reiterates that the petitioner agreed to a settlement of the claim in finality. However, on the date fixed for making such payment, the petitioner was absent despite repeated phone calls.

7. Since on the said date, the statutory period of one year from the complaint was expiring, the Bar Council Disciplinary Committee did not have any option but to close arguments and subsequently the impugned order was passed.

8. The scope of interference in the present matter under Article 226 of the Constitution of India is extremely limited.

9. It transpires from the order dated June 23, 2023 that both the parties were recorded to have agreed to settle the case and the respondent therein, that is, the present petitioner had agreed to pay a sum of Rs.1,25,000/- in full and final settlement of the claim.

10. The next date, that is, June 26, 2023 was fixed only for making such payment which the petitioner failed to do. Prior to the said date, the petitioner had been given ample opportunity to file written statement, which had been filed by the petitioner.

11. Thus, there is nothing palpable *ex facie* on the records to indicate that the principles of natural justice were violated in any manner, sufficient for this court to interfere under Article 226 of the Constitution of India.

12. This court chooses to exercise its self-imposed restriction in not interfering under Article 226, since an equally, if not more, efficacious remedy is available to the petitioner by way of an appeal under Section 37 of the Advocates Act.

13. Thus, even without going into the merits of the allegations and counter-allegations made by the parties, WPA 24119 of 2023 is disposed of by granting liberty to the petitioner to assail the impugned decision of the West

Bengal Bar Council Disciplinary Committee dated June 26, 2023 before the appropriate appellate authority.

14. If such an appeal is preferred within a fortnight from date, it will be deemed that the same has been filed in time and shall be decided in accordance with law upon opportunity of hearing being given to all concerned.

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.)