

**02.01.
2023**

Ct. No. 04

Ab

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.**

WP.ST 139 of 2022

**Satyajit Chowdhury
Vs.**

State of West Bengal and others.

**Mr. Gangadhar Das,
Mr. Tanmoy Chattopadhyay.
... for the petitioner.**

**Mr. Raja Saha,
Mr. Biswabrata Basu Mallick,
Mr. Sayan Ganguly.
... for the State.**

At the very outset we must record that the order passed by the West Bengal Administrative Tribunal on 9th December 2022 in OA 683 of 2022 does not contain any reason for refusal to pass an interim order.

The tribunal application was filed challenging an order dated 24th November 2022 passed by the authority in terms of the direction passed by the Tribunal in OA 627 of 2022. The aforesaid application was filed by the petitioner challenging the earlier action of the authority and was disposed of for reconsideration and passing the reasoned order and till that time the respondents were restrained from proceeding on the basis of the notifications dated 28th July 2022 and 19th August 2022.

The Tribunal even after noticing that the dates of the notifications are incorrectly recorded in the said order proceeded to correct the same, but since the interim order was operative till the fresh decision is taken by the authority and once the fresh decision has been taken, as we perceived from the impugned order, no fresh interim order can be passed in the proceeding,

which, in our opinion, is contrary to the settled legal principles that the interim orders are passed in aid of the final relief and that too on the basis of the existence and/or fulfillment of the three golden parameters required therefrom.

There is no discussion whether the petitioner has been able to make out a prima facie case for an interim order nor there is a whisper in the impugned order on the fact whether refusal to pass an interim order would result in inviting an irreversible situation.

Solely on the ground that the order is cryptic and cannot be comprehended on the basis of the facts disclosed by the respective parties before us, the impugned order is set aside.

The petitioner is permitted to approach the Tribunal with a prayer for an interim order and on such approach being made, the Tribunal shall prepone the date already fixed in the impugned order and after permitting the opportunity of hearing to the respondents shall consider the said prayer by recording proper reasons in accordance with law.

It goes without saying that the Tribunal would keep in mind that the delay in deciding the prayer for an emergent interim relief would be frustrated and, therefore, shall take a decision with alacrity and preferably within the reasonable time.

With these observations, the writ petition is disposed of.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

