

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/189/2022
WITH
WPO/2276/2022

IA NO. GA/1/2022
GA/2/2022

BISWAJIT GOSWAMI
VERSUS
WEST BENGAL STATE INFORMATION COMMISSION AND ANR.

BEFORE:

HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
HON'BLE JUSTICE RAJARSHI BHARADWAJ

Date: 20th January 2023.

Appearance:

Mr. Tapas Dutta, Advocate
... for the appellant/petitioner.

Mr. Raja Saha, Advocate
Mrs. Arpita Saha, Advocate
Mr. Sanjay Mukherjee, Advocate
... for respondents.

The Court:- By this intra-court appeal, writ petitioner has challenged the order of Learned Single Judge dated 13th July 2022 whereby the prayer of the counsel for the writ petitioner for withdrawal of WPO/2276/2022 was allowed and the writ petitioner was given leave to withdraw the writ petition and file afresh with appropriate relief.

Submission of learned counsel for the appellant is that there was no prayer made by the appellant for withdrawal of the writ petition and Learned Single Judge has wrongly dismissed the petition as withdrawn. He submits that the petitioner should be given liberty to file a fresh petition.

Having heard the counsel for the appellant and on the perusal of record, it is noticed that after the order dated 13th July 2022, the appellant had again approached the Learned Single Judge by way of GA/1/2022

with a prayer for recalling the order dated 13th July 2022. Learned Single Judge by the order dated 11th August 2022 had dismissed the GA by noting that the counsel had chosen to withdraw the writ petition rather than having the petition dismissed. The order passed in GA/1/2022 on 11th August 2022 reads as under:-

“After hearing learned counsel and upon recollecting the submissions made on behalf of the parties on 13th July, 2022, it is clear that the order was passed on learned counsel choosing to withdraw the writ petition rather than having the writ petition dismissed.

Hence, this Court finds no basis to recall the order passed on 13th July, 2022 which was passed only after hearing counsel and giving the petitioner the option to choose whether he wants the writ petition to be dismissed or to withdraw the same. In any event, the petitioner was given leave to file afresh with appropriate relief.”

The above order makes it clear that on the request of the counsel for the appellant, the petition was dismissed as withdrawn with liberty to file afresh with appropriate relief. The said liberty has been reiterated in the subsequent order dated 11th August 2022. Hence, in the above circumstances, the plea of the appellant that no such prayer for withdrawal of the writ petition was made before the Learned Single Judge cannot be accepted. The appeal is found to be devoid of merit, which is accordingly dismissed.

[PRAKASH SHRIVASTAVA, C.J.]

[RAJARSHI BHARADWAJ, J.]