

20.06
2024
THURSDAY

Court : 08
Item : DL-19
Matter : MAT
Status : DISMISSED
Bench ID : 266048
Transcriber : NANDY

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

MAT 322 of 2024
with
CAN 1 of 2024
CAN 2 of 2024

West Bengal Board of Primary Education & Ors.
Vs.
Malabika Mishra Harh & Ors.

Mr. Subir Sanyal, Advocate
Mr. Ratul Biswas, Advocate
Mr. Kaushik Chowdhury, Advocate
..... for the Appellants
Mr. Dibyendu Chatterjee, Advocate
Mr. Pritam Majumdar, Advocate
Mr. Mainak Sikngha Barma, Advocate
Ms. Satabdi Das, Advocate
.....for the Respondent No. 1
Mr. Gaurav Das, Advocate
.....for the State

1. The impugned order appears to have been passed on the basis of consent being given by the Counsel for the appellant to his status as a similarly circumstanced person that of the writ-petitioner in WPA 5505 of 2022 and compliance of the directions passed therein.
2. It is sought to be contended in the instant appeal that there was no concession given at the time of passing the impugned order and such recording is erroneous. It is further sought to be contended that the concession made at the Bar without any instruction from the client cannot act detrimentally to its interest and, therefore, the order warrants interference.
3. We find from the impugned order that the Single

Bench held the writ-petitioner/respondent stands on the same pedestal that of the petitioner in WPA 5505 of 2022, as corroborated by the Counsel appearing for the appellant. The moment the question is raised over the recording of concession by the Counsel on facts or such concession was never given, it would not be proper for the Appellate Court to interfere with such order. The proper course required to be adopted in this regard is to approach the same Judge, if available, before the event happened as recorded in the impugned order, fades from his memory. In case of unavailability, it would be proper to approach the Court before whom the matter was pending. But the order which is passed on concession unless the concession has been lifted and/or recalled, the Appellate Court should not interfere with such order.

4. We thus do not find any merit in the instant appeal.
5. The appeal being **MAT 322 of 2024** is **dismissed**. The connected applications being **CAN 1 of 2024** and **CAN 2 of 2024** also stands **dismissed**.
6. However, the dismissal of the appeal shall not prevent the appellant to approach the proper forum in this regard.

(Harish Tandon, J.)

(Prasenjit Biswas, J)

