

03.09.2024
Court No.09
Item no.12 ML
CP

WPA No. 8244 of 2024

Debasis Bandyopadhyay
Vs.
The State of West Bengal & ors.

Mr. Kamalesh Bhattacharya
Mr. Sankar Prasad Dalpati
Mr. Falguni Bandyopadhyay
Mr. Safik Dewan
Ms. Riya Ballav

....for the petitioner.

Mr. Arnab Chatterjee

....for the respondent nos. 4 to 16.

The writ petition is not maintainable. The petitioner is aggrieved by the decision of the Berhampore Bar Association debarring him from the association.

The Bar Association is not State under Article 12 of the Constitution of India. The dispute between the Bar Association and the members of the Bar Association are not amenable to writ jurisdiction. The petitioner has other remedies. Challenging the order dated August 29, 2017 of the Bar Association, the petitioner had approached another coordinate Bench on an earlier occasion by filing WPA No.26627 of 2023. It was categorically held by His Lordship that the action of the advocate/petitioner could not be sanctioned by the court and the writ petition was dismissed, irrespective of the merits. The conduct of

the petitioner was found to be deplorable. However, His Lordship had granted liberty to the petitioner to file a writ petition without deciding the merits.

The District Judge is not a disciplinary authority with regard to the conduct of the advocates and cannot sit in appeal over the decision of the Bar Association. Thus, the prayer to refer the matter to the District Judge, cannot be entertained. This is not also a matter between the petitioner and the Bar Council, West Bengal. The Bar Council, West Bengal grants licence to the advocates to practice, but the inter se relationship between the Bar Association and its members are not governed by the Bar Council. Thus, by making the Bar Council and the District Judge respondents in the writ petition, the jurisdiction of the writ court cannot be invoked for quashing of the decision of the Bar Association.

In the decision of Secretary Alipore Bar Association vs. Subir Sengupta & ors, in MAT 530 of 2024, it was held by the Hon'ble Division Bench of this court as follows:-

“22. Having held that the writ petition under Article 226 against the Bar Association is not maintainable, saving the exception discussed supra, we do not propose to embark on discussion regarding merit of the case. The appeal is, therefore, allowed and the impugned order is set aside. The writ petition having held to be not maintainable all the orders passed in the writ petition and the interim order passed in this appeal become non-est in the eye of law. The election having been held as per schedule in the notice dated

27.02.2024, the result of the election be published by the Election Officer forthwith.”

The writ petition is thus dismissed. The petitioner may avail of other remedies in accordance with law.

The petitioner can practice. The Bar Association cannot stop him from entering the court premises. The licence granted by the Bar Council, West Bengal permits the petitioner to continue his practice.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)