

25.04.2024
rpan/59

WPST 73 of 2024

Dr. Subhendu Maiti

- Versus -

The State of West Bengal & ors.

Mr. Sandip Mandal
... for the Petitioner.

Mr. Tapan Kumar Mukherjee, Ld. A.G.P.,
Mr. Somnath Naskar
...for the State/Respondents

Affidavit-of-service filed by the petitioner be kept on record. In spite of service no one appears on behalf of the State respondents and as such Mr. Mukherjee, learned Additional Government Pleader, who is present in Court, is requested to appear in this matter on behalf of the State respondents. Let such engagement of Mr. Mukherjee be regularized, with a junior of his choice.

The present writ petition has been preferred challenging *inter alia* an order dated 26th August, 2022 passed by the learned Tribunal disposing of the petitioner's contempt application, being CCP 51 of 2022.

Records reveal that initially challenging an order of transfer dated 3rd December, 2019 the petitioner preferred an original application, being O.A. Case no.839 of 2021 before the learned Tribunal. The same was disposed of by an order dated 25th January, 2022 granting liberty to the petitioner to file a representation ventilating his grievances before the Director of Public Instruction and directing the said respondent to

consider the petitioner's representation, if filed and to dispose of the same by passing a reasoned order. As the said order was allegedly not complied with, the petitioner preferred a contempt application, being CCP 51 of 2022. By an order dated 26th August, 2022 the said contempt application was disposed of since the petitioner's representation had been considered and disposed of by the alleged contemner by an order dated 16th August, 2022. Challenging the said order dated 16th August, 2022, the petitioner thereafter preferred a writ petition before this Court being WPA 14392 of 2023. By an order dated 30th November, 2023 the learned single Judge dismissed the writ petition as not maintainable with an observation that the said order shall not prevent the petitioner to approach the appropriate forum in accordance with law.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Once an order has been passed by a party to a proceeding on the basis of the direction issued by the Court, there arises a fresh cause of action to seek redressal in an appropriate forum and such action does not constitute contempt. In view thereof, the contempt proceeding was rightly dropped and the contempt application was disposed of. As such, no interference is called for in the present writ petition.

Needless to observe the disposal of the contempt application shall not prevent the petitioner from challenging the order dated 16th August, 2022 passed by the alleged contemnor before the appropriate forum.

Accordingly, the petitioner would be at liberty to challenge the said order dated 16th August, 2022 before the learned Tribunal, in accordance with law.

With the above observations and directions, the writ petition is disposed of.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty, J.)