

15.04.2024

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PG/KS

Ct. No.1

**F.M.A. 20 of 2024
With
I.A. No. CAN 1 of 2023**

**Chief Electrical Inspector,
West Bengal, Directorate of
Electricity, Government of West Bengal
Versus
Arabinda Nath Jati & Ors.**

Mr. Shayaak Chakraborty.....for the appellant

Mr. Dyutiman Banerjee

Mr. Vishal Mallik.....for the respondent no. 1/
writ petitioner

Mr. Sandipan Banerjee

Mr. Ankit Surekha.....for the Howrah Municipal
Corporation

Mr. Animesh Paul.....for the respondents 5 & 6

1. The appellant is the Chief Electrical Inspector of West Bengal and this appeal is directed against the order dated 17th April, 2023 by which the writ petition filed by the 1st respondent was allowed by setting aside the order passed by the Chief Electrical Inspector dated 20th December, 2022.
2. The learned Single Bench has recorded that the appellant, in spite of service of notice, did not care to appear or represent himself in the writ petition at the relevant point of time. The learned Single Bench also held that the provisions of the West Bengal Lifts, Escalators and Travelators Act, 2019 (for brevity 'the said Act') is not applicable to home lifts.

3. In this appeal, the appellant seeks to canvass the legal issue that the provisions of the said Act will also be applicable to home lifts and the finding rendered by the learned Single Bench may not be right. The appellant seeks to test the correctness of the impugned order on the grounds, which were never placed before the learned Single Bench. If according to the appellant, the provisions of the said Act would apply to home lifts as well, the proper course to be adopted was to file a review before the learned Single Bench and not to challenge the order by way of an intra-Court appeal on grounds, which were never placed before the learned Single Bench.
4. The learned advocate for the appellant submitted that a cost of Rs. 50,000/- has been imposed.
5. In the light of the above, the appeal and the connected application stand disposed of by giving liberty to the appellant to file a review canvassing all points of law and facts and also simultaneously seek for review of the order passed imposing cost.
6. If the review application is filed, the learned Single Bench is requested to consider the same and dispose it of in accordance with law.
7. The learned advocate appearing for the private respondents submitted that another appeal filed before this Court against the very same order in M.A.T. 746 of 2023 was disposed of by making certain observations.

The order passed in M.A.T. 746 of 2023 dated 6th July, 2023 be also taken note of by the learned Single Bench as and when the review application is filed.

8. No costs.
9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)