

24.09.2024
sayandeep
Sl. No. 11
Ct. No. 08

MAT 1633 of 2024
With
CAN 1 of 2024

Rabin Das
-Versus-
The State of West Bengal & ors.

Mr. Subhrangsu Panda
Mr. I. Bhattacharyya
Ms. M.S. Mahapatra
..... for the appellant
Mr. Supriyo Chattopadhyay
Ms. Sayantanee Bhattacharjee
.... for the State
Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta
..... for the WBBSE
Mr. Sourav Mitra
.....for the CSSC

The order dated 10.07.2024 is the subject matter of challenge in the instant appeal. By the said order, The Single Bench dismissed the writ petition in the following:

“At the time of call no one appears on behalf of the petitioner and no accommodation is prayed for.

However, State respondents are represented by learned advocates.

On 12th June, 2024 an accommodation was prayed for on behalf of the petitioner for obtaining instructions.

It appears that petitioner has lost interest.

The writ petition stands dismissed.

Urgent Photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.”

Learned counsel for the appellant submits that because of the unavoidable compelling circumstances,

he could not appear on the said date when the said writ petition was called on and dismissed by the Court.

It appears from the impugned order that even on 12th June, 2024, an accommodation was sought on behalf of the petitioner and precisely for reason the Single Bench proceeded to dismiss the said application. The counsel for the appellant insisted the Appellate Court to hear out the matter on merit to which we do not think that it would be proper. The Appellate Court decides the matter in relation to the order which is the subject matter of challenge before it. The writ Court being the Court of first instance has not decided the matter on merit and, therefore, the usurpation of the power of Single Bench by the Appellate Court should be astute and avoided.

Considering the explanation so offered, we feel that the case made out by the appellant in the said writ petition deserves to be decided on merit. Accordingly, the order impugned is set aside; as a consequence whereof, the writ petition is restored to its original file and number.

The Single Bench is requested to take up the writ petition and decide the same as expeditiously as possible after affording an opportunity of hearing to the respective parties.

(Harish Tandon, J.)

(Partha Sarathi Sen, J.)