

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

***M.A.T. 1718 of 2024
(CAN 2 of 2024)***

***Sri Himadri Chowdhury
-Vs-
The State of West Bengal & Ors.***

For the Appellant : Mr. Biswaroop Bhattacharya, Adv.,
Mr. Pratik Mazumder, Adv.,
Ms. Neelanjana Ghorai, Adv.

For the State : Mr. Supriyo Chattopadhyay, Adv,
Ms. Iiti Dutta, Adv.

For the WBBSE : : Mrs. Koyeli Bhattacharyya, Adv.

Heard on : 06.09.2024

Judgment on : 06.09.2024

Joymalya Bagchi, J. :-

1. Appellant has assailed order dated 21.08.2024 wherein the Hon'ble Single Judge was not inclined to permit the appellant to withdraw the writ petition at that stage.
2. Appellant and one Sanjay Mukhopadhyay had approached this Court, inter alia, praying for issuance of release orders to give effect

to a mutual transfer. Both the writ petitions were heard together. During the hearing of the writ petitions, it came to light the appellant had been suspended and disciplinary proceedings had been initiated against him. Honble Judge took serious note of such fact and observed appellant had not approached the court with clean hands.

3. As appellant could not be released due to the suspension order, Sanjay Mukhopadhyay was given leave to withdraw his prayer for mutual transfer and apply afresh.
4. Thereafter, appellant prayed for withdrawal of his writ petition. However, Hon'ble Single Judge was not inclined to allow the prayer at that stage and fixed the writ petition for final hearing.
5. Mr. Bhattacharya contends suspension order has been recalled and he has joined the school.
6. We note Hon'ble Single Judge had merely declined withdrawal of the writ petition at that stage and fixed the matter for hearing. Subsequent developments had not been placed before the Hon'ble Judge.
7. In such view of the matter, we choose not to interfere with the order impugned. It is open to the appellant to canvass the subsequent developments before the Hon'ble Single Judge in accordance with law and pray for appropriate reliefs including withdrawal of the writ

petition. Hon'ble Single Judge is at liberty to take an independent decision in the matter.

8. With this observation, the appeal and the connected application are dismissed.
9. There shall be no order as to costs.
10. Photostat certified copy of this judgment, if applied for, be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

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