

26th February,
2024
(AK)
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W.P.A 28699 of 2023

Subham Surana
Vs.
The State of West Bengal and others

Mr. Mayukh Mukherjee
Mr. Kunal Saraogi
...for the petitioner.

Mr. Wasim Ahmed
Mr. Sk. Md. Masud
...for the State.

Mr. Krishnendu Sarkar
Ms. Megha Das
...for the respondent no.3.

Mr. Nirmalya Biswas
...for the respondent no.4.

1. The petitioner claims to be a constituted attorney of his father and moves a petition on behalf of his father.
2. A challenge has been preferred against an order whereby the application of the petitioner for cancellation of an excise licence has been rejected by the Collector of Excise by regularizing the licence.
3. At the outset, learned counsel for all the respondents independently raise objection to the maintainability of the writ petition in view of availability of an equally efficacious alternative remedy by way of an appeal under Section 8 of the Bengal Excise Act, 1909.

4. Indeed, Section 8(2) provides for appeal against orders passed under the Act or under any Rule made thereunder.
5. Since certain issues have been raised by the petitioner which are required to be entered into on merits on the factual premise of the issues involved, the court chooses to adopt a self-imposed restriction by relegating the petitioner to the appropriate Appellate Authority in that regard.
6. Hence, WPA 28699 of 2023 is dismissed as not maintainable with liberty to the petitioner to prefer an appeal on the self-same cause of action before the Appellate Authority as provided under the Bengal Excise Act, 1909.
7. It is made clear that the period of pendency of the writ petition shall be excluded from the limitation period of such appeal, if any, preferred by the writ petitioner.
8. It is further clarified that the merits of the matter have not been gone into by this court.
9. There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)