

OD -4

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/8/2024

AMITAVA DE BHOWMICK
VS
THE WEST BENGAL INFORMATION COMMISSION AND ORS.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 24th January, 2024.

Appearance:
Mr. Anindya Bose, Adv.
Mr. A. Banerjee, Adv.
... for the petitioner.

Mr. Raja Saha, Adv.
Mr. Sanjoy Mukherji, Adv.
... for the respondent nos. 1-4.

Mr. Alak Kumar Ghosh, Adv.
Mr. Gopal Chandra Das, Adv.
... for the KMC.

The Court :- At the outset, learned Counsel for the petitioner, in his usual fairness, cites a judgment of the Supreme Court reported at *AIR 2012 Supreme Court 864 (Chief Information Commissioner and Anr. Vs. State of Manipur and Anr.)* and submits that in terms of the said judgment, the powers of an Information Commission under Section 18 of the Right to Information Act, 2005 is limited to awarding penalties and not directing information to be furnished. As such, the petitioner seeks to prefer a proper challenge against the order of the S.P.I.O. before the appropriate First Appellate Authority.

Learned Counsel for the respondent authority submits that the respondents have already rejected the petitioner's application under Section 18 of the 2005 Act and as such, there is no further scope of withdrawing the said application. That apart, it is pointed out that the petitioner, in his

communication to the State Chief Information Commissioner dated November 8, 2023 annexed at page 31 of the writ petition, has made certain allegations, including insinuations of bias which are entirely unfounded and unwarranted.

Learned Counsel for the respondent is justified in arguing that such allegations cannot be made at the drop of a hat, more so since the Chief Information Commissioner is a quasi judicial authority. Accordingly, such allegations ought not to have been made without any basis for making those being disclosed at all in the communication. Hence, the said allegations made by the petitioner in the communication dated November 8, 2023 be deemed to stand expunged.

WPO/8/2024 is thus disposed of in terms of the prayer of the petitioner, with liberty to the petitioner to prefer a proper challenge before the First Appellate Authority against the order of the S.P.I.O. If such a challenge is preferred within a week from date, the First Appellate Authority will leniently consider the time taken for pendency of the writ petition and the application under Section 18 of the 2005 Act in condoning the delay in preferring the same.

No order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)