

OD-3

ORDER SHEET

WPO 245 of 2024
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SUDHA GUPTA
VS.
THE STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE SAUGATA BHATTACHARYYA
Date: 19th June, 2024.

Mr. Anjan Bhattacharya, Ms. Anita Shaw, Advocates
for the petitioner.

Mr. Joydip Banerjee, Ms. Mousumi Banerjee,
Advocates for the State.

Mr. Saptansu Basu, Sr. Advocate, Mr. Debapriya Gupta, Advocate for
respondent nos.4 & 5.

The Court : The writ petition is heard in presence of the learned
Advocates representing the petitioner, State respondents and School
Authority.

Mr. Basu, learned Senior Advocate represents the School Authority.

During course of hearing question arises for consideration whether
the present writ petition on the Original Side is maintainable or not since
the offices of some of the respondents do not situate within the Original Side
jurisdiction of this Court.

Mr. Bhattacharya, learned Advocate representing the petitioner in order to answer the query of this Court has relied upon a judgment of a co-ordinate Bench dated 4th August, 2023 passed on a writ petition being WPO 3364 of 2022 (Amara Badyakar @ Angura Badyakar Vs. M/s. Eastern Coal Fields Limited & Ors.).

It has been submitted on behalf of the respondents that in terms of the relevant provisions of the Original Side Rules, all the respondents in the writ petition are required to be either residing within the Original Side jurisdiction of this Court or their offices are situated within the Original Side jurisdiction.

Having heard the learned Advocates representing the petitioner and the respondents and considering the ratio decided by the co-ordinate Bench in Amara Badyakar (supra) wherein some other judgments of this Court have been relied upon, it appears that the co-ordinate Bench has held that the jurisdiction of Article 226 of the Constitution of India is not at all dependent on any subsidiary rules but it is exercisable under the Court's constitutional power. Such constitutional right of a litigant cannot be frustrated merely because of the subsidiary rules of the High Court. Taking cue from the observations made by the co-ordinate Bench in the judgment dated 4th August, 2023, this Court decides to entertain the writ petition not on the Original Side but in the Appellate Side, since some of the respondents are outside the jurisdiction of Original Side.

Accordingly, the department is directed to convert the present writ petition on the Original Side into a writ petition in the Appellate Side and renumber the same within a period of seven days from date.

Advocate-on-Record of the petitioner is directed to cooperate with the department in completing the formalities within the aforesaid time of seven days.

After conversion of the writ petition into the writ petition in the Appellate Side and on being renumbered, the writ petition is directed to appear under the heading 'Motion' in the combined monthly list of July, 2024 for further consideration.

(SAUGATA BHATTACHARYYA, J.)

pa/sb