

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Uday Kumar

FMA 947 of 2025
With
CAN 1 of 2025

Sahin Sultana
Vs.
The State of West Bengal and Ors.

For the petitioner : Mr. Shuvro P. Lahiri,
Md. Habibur Rahaman,
Mr. Rajesh Naskar

For the respondent
no. 9 : Mr. Syed E. Huda,
Sk. Aptabuddin,
Ms. Nabeda Akbar

For the State : Ms. Sonal Sinha,
Ms. Asmita Chakraborty,
Mr. Amrita Lal Chatterjee

Heard on : August 21, 2025.
Judgment on : August 21, 2025.

Sabyasachi Bhattacharyya, J.:

1. Affidavit of service filed today be kept on record.

2. The scope of the appeal is extremely limited. By an order dated March 25, 2025, the learned Single Judge recorded that despite the petitioner having given liberty to contradict the affidavit filed by the private respondent, no opposition against the affidavit has been placed. None appeared for the petitioner to move the writ petition on the relevant date before the learned Single Judge. Accordingly, the learned Single Judge rendered his observations on merits and disposed of the writ petition.
3. Learned counsel for the appellant submits that due to circumstances beyond the control of the petitioner, the petitioner could not be represented on the relevant date.
4. Learned counsel for the State submits that there is no error in the order impugned before this court.
5. We are fully aware of our limitations while considering an intra-court appeal. To be candid, we do not find any error as such in the impugned order. However, in view of the fact that the absence of the petitioner on March 25, 2025 was the first default of the petitioner before the learned Single Judge and also taking into consideration the fact that the petitioner did not get an opportunity to controvert the stand of the State, we are

of the opinion that although prima facie there is no error otherwise in the impugned order, another opportunity ought to have been granted to the writ petitioner/present appellant to place her case before the learned Single Judge.

6. Accordingly, FMA 947 of 2025 is allowed on contest, thereby setting aside the order dated March 25, 2025 and remanding the matter to the learned Single Judge to proceed from the stage which it had reached by giving a last chance to the petitioner to file her affidavit in connection with the writ petition and giving the parties an opportunity to address the writ court on merits.
7. It is, however, made clear that in the event the petitioner fails to appear on the next date fixed by the learned Single Judge and/or file her affidavit on the said date, it will be open to the learned Single Judge to proceed in accordance with law and finally dispose of the writ petition in the absence of the writ petitioner/appellant.
8. CAN 1 of 2025 is also disposed of consequentially.
9. There will be no order as to costs.

10. Urgent photostat certified copy of the order, if applied for, be supplied to the parties at an early date.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)