

S/L 4
15.01.2026
Court. No. 25
suvayan

CAN 1 of 2025
In
WPA 25520 of 2025

Priyanka Maity
Vs.
The State of West Bengal & Ors.

Mr. Jayanta Narayan Chatterjee, Sr. Adv.
Mr. Supreem Naskar
Ms. Pritha Sinha

...for the petitioner.

Mr. Himadri Sekhar Chakraborty
Mr. Kaustav Chatterjee

...for the State.

1. The petitioner has filed the present application being CAN 1 of 2025 praying for recalling of the order dated 02.12.2025. As per the submission made by the learned counsel for the petitioner WPA 25520 of 2025 is dismissed as withdrawn with the liberty to the petitioner to file appropriate appeal before the appropriate forum.
2. Learned counsel for the petitioner relied upon the order passed by the Hon'ble Division Bench of this Court in the case of *Smt. Mamata Sarki & Anr. Vs. The State of West Bengal & Ors.* passed in *MAT 61 of 2019* dated 19.03.2020 wherein the Hon'ble Division Bench has held that the parents/senior citizens would challenge the order before the appellate authority constituted under the Act. The children/relatives would have to challenge the order by way of a proceeding under Articles 226 or 227 of the Constitution of India before the High Court. The Hon'ble Division Bench has kept open whether the application under Article 226 of the Constitution of India

or an application under Article 227 of the Constitution of India is maintainable.

3. Learned counsel for the petitioner submits that in terms of the order passed by the Hon'ble Division Bench there is no appellate provision and as such the petitioner has to continue with the proceeding of the present writ application. Accordingly, he prays for recalling of the order and to restore of the writ petition being WPA 25520 of 2025 in its original file.
4. Learned counsel for the respondents raised objection and submits that this Court by an order dated 02.12.2025 has dismissed the writ application as withdrawn as per the submission made by the learned counsel for the petitioner and as such an order passed by this Court dated 02.12.2025 cannot be recalled and the application filed by the petitioner is not maintainable. He further submits that the petitioner has not filed any application for review of the order dated 02.12.2025. Learned counsel for the respondents further submits that the order passed by the SDO is an appealable order under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and as such the petitioner has to approach the appellate authority.
5. Heard the learned counsel for the respective parties.
6. This Court finds that initially the petitioner was of the view that the order is appealable and taken leave of this Court to file an appeal before the appropriate Court, accordingly, this Court has dismissed the writ application with the liberty to file an appeal. Subsequently, the

petitioner came to know with regard to the order passed by the Hon'ble Division Bench in the matter of *Smt. Mamata Sarki (supra)* wherein the Hon'ble Division Bench categorically held that only the senior citizens/parents can maintain the appeal under Section 16 of the Act and the children and the relatives can only maintain the writ petition either under Article 226 or under Article 227 of the Constitution of India.

7. Considering the above, this Court finds that on the misconception, the petitioner has prayed before this Court for withdrawal of the writ application, accordingly, the writ petition is dismissed as withdrawn with the liberty to file an appeal. Now in terms of the order passed by the Hon'ble Division Bench the appeal is not maintainable as the petitioner is neither senior citizen nor parent. Admittedly, the petitioner is the daughter-in-law of the complainant before the Sub-Divisional Officer.
8. Considering the above, this Court finds that the CAN 1 of 2025 filed by the petitioner is maintainable for recalling of the order dated 02.12.2025.
9. Accordingly, the order dated 02.12.2025 is recalled.
10. WPA 25520 of 2025 is restored in its original file.
11. CAN 1 of 2025 is disposed of.
12. List the matter on February 19, 2026 under the heading "Urgent Motion".

(Krishna Rao, J.)