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22.12.2023
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 5418 of 2023

Mohibulla Molla
Vs.
The State of West Bengal & Ors.

Mr. Firdous Samim,
Ms. Gopa Biswas,
Ms. Payel Shome,
Ms. Sampriti Saha,
Ms. Mohana Das
...for the petitioner

Mr. Amal Kumar Sen,
Mr. Lalmohan Basu,
...for the State

Mr. Raja Saha,
Mr. Sanjay Mukherjee
...for the State Information Commission

Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey
...for the WBCSSC

1. Learned counsel for the petitioner contends that the petitioner sought certain information from the State Public Information Officer (SPIO), which was refused, upon which a first appeal was preferred under the Right to Information Act (RTI). Having failed before the first Appellate Authority, an appeal has been taken out before the second Appellate Authority, that is, the respondent no. 7, which has been kept pending.

2. Learned counsel appearing for the respondents contend that a reply was given on May 30, 2022 to the petitioner to the effect that as per the solemn order of a coordinate Bench of this Court dated May 19, 2022, the Central Bureau of Investigation has taken over the possession and control of the data room of the office on that date, for which the office was not in a position to furnish any date regarding reply to the RTI queries of the petitioner.

3. Learned counsel for the petitioner, in reply, hands over a server copy of the order dated September 09, 2022 passed by the same coordinate Bench where it was observed that the data room should be handed over from that date, that is, from September 09, 2022, by the CBI to the Chairman of the West Bengal Central School Service Commission after completing all formalities in that regard and the CRPF deployed there should be withdrawn after handing over of the data room. It was also observed that from that date after handing over of the data room to the Commission, the Commission shall be entitled to use the data room for their purposes.

4. Evidently, the defence taken by the respondents is *prima facie* not acceptable in view of the subsequent order.

5. Be that as it may, it is for the second Appellate Authority to take note of the subsequent developments and to pass necessary directions disposing of the petitioner's appeal.

6. Accordingly, W.P.A. No. 5418 of 2023 is disposed by directing the respondent no. 7, that is, the West Bengal Information Commission or State Information Commission (SIC), West Bengal to dispose of the pending second appeal at the behest of the petitioner, as expeditiously as possible, positively within January 31, 2024 by taking note of the order dated September 09, 2022 passed in W.P.A. 5406 of 2022 with W.P.A. 12270 of 2021 by a coordinate Bench of this Court.

7. The petitioner shall, for such purpose, furnish a copy of the said order and other relevant orders, if any, to the second Appellate Authority to enable the said Authority to dispose of the appeal properly.

8. There will be no order as to costs.

9. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities

(Sabyasachi Bhattacharyya, J.)