

**ORDER SHEET**  
**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

**Present-**

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER

**Case No. CCP-50 of 2023 (OA – 821 of 2021)**

**Jayanti Mukhopadhyay - Vs - Mr. Manoj Pant, Principal Secretary, Finance Deptt.**

Serial No. and  
Date of order

07  
24.07.2025

For the Applicant : Mr. M.N. Roy,  
Mr. B. Nandi,  
Learned Advocates.

For the State : Mr. G.P. Banerjee,  
Respondents Learned Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

Mr. Roy, learned counsel in support of his argument submits that the case is pending before the Hon'ble Apex Court does not stop this Tribunal from proceeding further in this contempt application. He has relied on a judgement passed by Hon'ble Supreme Court of India in the case of Atma Ram Properties (P) Ltd. Vs. Federal Motors (P) Ltd. reported in (2005) 1 SCC 705. The relevant portion of the judgement is as under :-

*“It is well settled that mere preferring of an appeal does not operate as stay on the decree or order appealed against nor on the proceedings in the court below. A prayer for the grant of stay of proceedings or on the execution of decree or order appealed against has to be specifically made to the appellate court and the appellate court has discretion to grant an order of stay or to refuse the same. The only guiding factor, indicated in Rule 5 aforesaid, is the existence of sufficient cause in favour of*

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*the appellant on the availability of which the appellate court would be inclined to pass an order of stay. Experience shows that the principal consideration which prevails with the appellate court is that in spite of the appeal having been entertained for hearing by the appellate court, the appellant may not be deprived of the fruits of his success in the event of the appeal being allowed. This consideration is pitted and weighed against the other paramount consideration: why should a party having succeeded from the court below be deprived of the fruits of the decree or order in his hands merely because the defeated party has chosen to invoke the jurisdiction of a superior forum. Still the question which the court dealing with a prayer for the grant of stay asks itself is: why the status quo prevailing on the date of the decree and/or the date of making of the application for stay be not allowed to continue by granting stay, and not the question why the stay should be granted.”*

Mr. Roy also files a copy of SLP NO. 19038/2022 of Hon’ble Supreme Court of India. The relevant portion of the judgement is as follows :-

*Though, such contention is put forth by the respondents, keeping in view the provisions as contained in Order 41 Rule 5 of CPC, unless the appeal is listed and there is an interim order, the mere filing of the appeal would not operate as a stay. If that be so, the judgment and decree*

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*dated 25.08.2021 would enure to the benefit of the petitioner as on today and the rejection of the NOC only on the ground that the appeal has been filed, would not be justified. In that view, the High Court was also not justified in rejecting the petition.*

However, Mr. Banerjee, having listened to Mr. Roy's argument is of the view that this particular observation of Hon'ble Apex Court is not relevant in this case. He wishes to present before this Tribunal contrary judgements.

Let the matter appear under the heading **Hearing on 23.09.2025.**

**(SAYEED AHMED BABA)**  
**OFFICIATING CHAIRPERSON AND MEMBER (A)**

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