

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL
Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present : **HON'BLE JUSTICE SOUMITRA PAL,** **HON'BLE CHAIRMAN &**
HON'BLE SAYEED AHMED BABA, **ADMINISTRATIVE MEMBER.**

Case No. – MA 26 of 2022 (OA 741 of 2019).

NIRMAL CHANDRA BISWAS – VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. M.N. Roy, Mr. B. Nandy, Advocates.
<u>2</u> 4.4.2022	For the State respondents	: Mr. S. Ghosh, Advocate.
	For the Public Service Commission, West Bengal	: Mr. S. Bhattacharjee, Advocate.

In this application, being MA 26 of 2022, arising out of OA 741 of 2019, the original applicant has prayed for the following:-

“...Under the aforesaid facts and circumstances, your applicant most humbly prays that Your Lordships may graciously be pleased to allow the instant application by passing appropriate orders, allowing thereby the applicant to place on record the orders dated 12.07.2021 and 27.10.2021 passed by The Hon'ble Supreme Court of India in Special Leave to Appeal (C) No. 8699 of 2021 and The Order dated 14.06.2021 passed by The Hon'ble High Court, Calcutta, in WPST 09 of 2021, enabling thereby the applicant to get the instant original application heard on its merit and to pass such further Order or Orders, direction or directions as Your Lordships may deem fit and proper...”

It is submitted by Mr. M.N. Roy, learned advocate for the applicant that since the issue involved in OA 741 of 2019 which is pending before the Tribunal, is covered by the judgement delivered on 14th December, 2020 in OA 940 of 2019 Pritam Ghosal –vs- The State of West Bengal and Ors, the matter may be disposed of in the light of judgement in Pritam Ghosal (supra).

Submission is being aggrieved by the order dated 14th December, 2020 in Pritam Ghosal (supra), the Public Service Commission, West Bengal filed a writ petition being WPST 9 of 2021

before the High Court and the High Court while admitting the writ petition did not stay the order passed by the Tribunal on 14th December, 2020. Still aggrieved the Commission moved the Supreme Court. The Supreme Court in Civil Appeal No. 6476 of 2021 while allowing the appeal had passed an order, the relevant portion of which is as under :-

“...We, therefore, allow this appeal and direct that pending consideration and final disposal of W.P.S.T. No. 9 of 2021 on the file of the High Court at Calcutta, the effect and operation of the order passed by the Tribunal on 14.12.2020. shall remain stayed.

We have not and shall not be taken to have reflected on merits of the matter, which shall be gone into independently in the W.P.S.T. No. 9 of 2021.

In the facts and circumstances of the case, there will be no order as to costs...”.

It is submitted by Mr. Roy that since there is a subtle difference between the staying of operation of an order and setting aside of an order, in view of the judgements of the High Court passed on 16th April, 2021 in WPA 11123 of 2020 and the judgement of Supreme Court in Shree Chamundi Mopeds Ltd. – versus- Church of South India Trust Association : (1992) 3 SCC 1, the matter may be taken up for hearing.

Mr. S. Ghosh, learned advocate appearing on behalf of the State respondent no.1 submits since the order of the Tribunal passed on 14th December, 2020 has been stayed by the Supreme Court, the matter may not be taken up for hearing.

The submission of Mr. Ghosh is adopted by Mr. S. Bhattacharjee, learned advocate for the Commission.

Since we find the order dated 14th December, 2020 passed by the Tribunal in Pritam Ghosal (supra), has been stayed by the Supreme

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Court and the matter is pending before the High Court, no order is passed on the Miscellaneous application. The Miscellaneous Application 26 of 2022 is disposed of.

(SAYEED AHMED BABA)
MEMBER(A)

(SOUMITRA PAL)
CHAIRMAN.

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