



**ORDER SHEET**

SANTANU ROY.

Form No. ....

**Vs.**

SMARAKI MAHAPATRA, COMMISSIONER, COMMERCIAL TAXES, GOVERNMENT OF WEST BENGAL &amp; OTHERS.

Case No. **CCP 34 of 2019 (OA 71 of 2019)**. .....

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
	<p>Additional Chief Secretary, Finance, by passing a reasoned order to be communicated to the parties within twelve weeks after giving an opportunity of hearing and after verifying the records.....”.</p> <p>Thereafter, the applicant on 12<sup>th</sup> March, 2019 had applied for voluntary retirement before the Principal Secretary, Finance (Revenue) department, Government of West Bengal. The grievance of the applicant is that the Commissioner, Commercial Taxes, West Bengal on 12<sup>th</sup> March, 2019 has issued show cause notice, as he has not joined at Coochbehar, to render the order dated 5<sup>th</sup> March, 2019 infructuous.</p> <p>Mr. A.K.Biswas, learned advocate for the applicant, submits that on 9<sup>th</sup> July, 2019 the Joint Commissioner of Revenue, Commercial Taxes, Coochbehar charge has issued a memo dated 12<sup>th</sup> March, 2019 regarding absence of the applicant from 13<sup>th</sup> December 2018 till 13<sup>th</sup> March. A copy of the said memo furnished today be kept on record. Submission is in this manner instead of issuing format for applying voluntary retirement, the Commissioner is trying to render the order passed on 5<sup>th</sup> March, 2019 infructuous. Be it noted that in this contempt application the Commissioner,</p>	

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	<p>Commercial Taxes, West Bengal is the alleged contemnor.</p> <p>Mr. G.P. Banerjee, learned advocate appearing on behalf of the alleged contemnor submits that it is apparent from the order dated 5<sup>th</sup> March, 2019 the applicant was directed to file an application in prescribed format for voluntary retirement and if not available liberty was granted to file such application disclosing all service particulars before the Principal Secretary, Finance (Revenue), Government of West Bengal, – the respondent no. 1, now designated as Additional Chief Secretary, Finance within four weeks. According to him he has filed an application for voluntary retirement, as evident from page 75 of the contempt application, and it is apparent from the order dated 5<sup>th</sup> March, 2019 that there is no impediment on behalf of the Commissioner to proceed against the applicant by issuing show cause notice for his absence from 13<sup>th</sup> December 2018 to 13<sup>th</sup> March, 2019. Therefore, there is no question of rendering the order passed on 5<sup>th</sup> March, 2019 in OA 71 of 2019 as infructuous as it is a separate matter altogether. It is submitted on instruction that the order dated 5<sup>th</sup> March, 2019 is yet to be served on the Additional Chief Secretary, Finance (Revenue),</p>	

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Skg.	<p>Government of West Bengal.</p> <p>Having heard Mr. Biswas and Mr. Banerjee , since by order dated 5<sup>th</sup> March, 2019 passed in OA 71 of 2019 the Principal Secretary, Finance (Revenue), Government of West Bengal, – the respondent no. 1, was directed to consider the application for voluntary retirement of the applicant and as the Commissioner, Commercial Taxes, the alleged contemnor, who has issued the show cause notice to the applicant is in no way involved in the matter as apparent from the order dated 5<sup>th</sup> March, 2019 passed in OA 71 of 2019, the contempt application is not tenable and is thus dismissed.</p> <p>(Subesh Kumar Das) Member (A).</p> <p>(Soumitra Pal) Chairman.</p>	