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**(2020) 03 CAL CK 0052**

**In the Calcutta High Court**

**Case No :** Writ Petitions (WP) No. 2639 (W) Of 2020

Uday Narayan Adhikary

APPELLANT

Vs

State Of West Bengal And Others

RESPONDENT

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**Date of Decision :** 02-03-2020

**Acts Referred:**

**Citation :** (2020) 03 CAL CK 0052

**Hon'ble Judges :** Sabyasachi Bhattacharyya, J

**Bench :** Single Bench

**Advocate :** D. Paul, A Chakraborty, Raja Saha, Arpita Saha, Sanjy Mukherjee, Pradip Kumar Roy, Shraboni Sarkar

**Final Decision :** Disposed Of

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## **Judgement**

Sabyasachi Bhattacharyya, J

Affidavit-of-service filed in Court today be taken on record.

The present petition is directed against the refusal by the second appellate authority under the Right to Information Act, 2005, to direct the first

appellate court to dispose of the first appeal filed by the petitioner in respect of fourteen applications made before the first forum.

It is pointed out by learned counsel appearing for the West Bengal Information Commission that the second appellate authority already passed an

order on January 2, 2020, which is annexed as Annexure â?" P14 at page - 56 of the writ petition, that the petitioner was advised to prefer a first

appeal to the competent authority within thirty days, if he so desires.

It is further submitted on behalf of the Information Commission that a single first appeal or second appeal in respect of fourteen different and distinct

applications is not maintainable in the eye of law.

Learned counsel appearing for the petitioner, in reply, submits that, a conjoint reading of sub-sections (1) and (3) of Section 19 of the 2005 Act shows

that even in the event no decision is received by a person within the time specified in sub-section (1) or clause (a) of sub-section (3) of Section 7 or is

aggrieved by a decision of the Central Public Information Officer or the State Public Information Officer, as the case may be, the aggrieved person

may, within thirty days from the expiry of such period or from the receipt of such a decision, prefer an appeal to such officer who is senior in rank to

the Central Public Information Officer or the State Public Information Officer, as the case may be, in each public authority.

Learned counsel appearing for the petitioner submits that in view of such provision, a second appeal should also be deemed to lie against an inaction of

the first appellate authority to look into the refusal to give the information required by the petitioner within the stipulated time frame.

Be that as it may, it appears that the second appellate authority, instead of deciding upon the second appeal on merits or on maintainability, merely

directed the petitioner to prefer a first appeal before the competent authority within thirty days.

However, in order to obviate further delay in the matter, since the first appeal is already pending against the refusal to give information on the fourteen

applications, which is annexed at page- 52 of the instant writ petition, it would be appropriate if the first appellate authority is directed to decide on the

grievances lodged by the petitioner, being Annexure- P11 at page - 52 of the present writ petition.

Accordingly, W. P. No. 2639(W) of 2020 is disposed of by directing the first appellate authority, being respondent no. 5, to decide on the grievances

lodged by the petitioner, being Annexure- P11 at page - 52 of the instant writ petition, both on the questions of maintainability first and then on merits,

if necessary, at the earliest.

It is expected that the respondent no. 5 shall decide on such issues as expeditiously as possible, preferably within thirty days from this date, and shall

communicate the decision to the petitioner at the earliest thereafter.

There will be no order as to costs.

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