

DL. December
43. 16, 2020

M.A.T. 793 of 2020

Re: CAN 1 of 2020 (stay)
filed on December 10, 2020.

Mr. Atarup Banerjee,
Mr. Mrityunjoy Chatterjee,
Mr. Md. Golam Nure Imrohi,
...for the appellant.

Mr. Tapan Kumar Mukherjee,
Mr. Shamiul Bari,
...for the State respondent.

Mr. Anil Kumar Gupta,
...for the respondent no. 4.

Mr. Ekramul Bari,
Ms. Tanuja Basak,
...for the writ
petitioner/respondent.

Although the matter is appearing under the heading application, by consent of the parties, the appeal itself is taken up for hearing by treating the same as on day's list.

This appeal has arisen out of an ad interim order dated November 20, 2020 by which the order dated October 14, 2020 impugned in the writ petition was stayed till December 22, 2020 or until further orders, whichever is earlier. The writ petition was directed to appear for final hearing on December 15, 2020.

In granting limited interim order, the learned Single Judge has taken into consideration a valid question that has been raised by the writ petitioner against the action of the respondent authorities in terminating the service of the writ petitioner from the post of "Shiksha Samprosarak" in English with immediate effect

and directed criminal investigation to be started against the writ petitioner on the ground that the petitioner had committed a forgery in submitting his documents, despite the fact that the petitioner was not aware that Chhhattisgarh University was not in the recognised list of the University Grants Commission, when such documents for appointment were submitted by the writ petitioner. the learned Single Judge has taken into consideration that this information came into the light in the year 2019 after the Chhattisgarh University communicated the same in February 2019.

The writ petitioner was appointed in the year 2010 as a para teacher. The enquiry seems to have emanated from an order dated February 3, 2020 passed by a learned Single Judge in a writ petition filed by the present appellant directing the District Officer, Minority Affairs and the Nodal Officer, Madrasah Shiksha Kendra to look into the certificates of qualifications submitted by the present writ petitioner/respondent to obtain appointment as a para teacher.

It seems that consequent upon the said direction an enquiry being done and as a result of the enquiry by the authority concerned, it transpired that Chhattisgarh University is not a recognised University by the University Grants Commission.

There are two aspects in the matter. The ignorance of the writ petitioner/respondent as to the recognition of the Chhattisgarh University by the University Grants Commission may absolve in criminal action, but it is certainly a disqualification for being appointed to the post if that be the sole consideration or a requisite qualification required for the post. This aspect has not been

considered by the learned Single Judge, since it appears that the respondents were not represented despite service.

The learned advocate appearing on behalf of the appellant as well as Mr. Tapan Kumar Mukherjee, learned Additional Government Pleader have submitted that the matter was called out of turn and, as such, they could not be represented which could not be refuted by the learned counsel appearing for the writ petitioner.

However, considering the fact that the learned Single Judge did not take into consideration the aforesaid factor as well as previous order dated February 3, 2020, we feel that before extending the interim order, the parties shall be heard on the points raised by the parties in this regard.

In view of the fact that the matter is supposed to appear on December 15, 2020 and the interim order is valid till December 22, 2020, we are not interfering with the interim order passed by the learned Single Judge and we leave with the discretion of the learned Single Judge as to whether the interim order should be extended beyond December 22, 2020.

With the aforesaid observations, the appeal and the application for stay are disposed of.

There will be no order as to costs.

(Soumen Sen, J.)

