

17.12.2021
Item no.2
Court No.6.
AB

M.A.T. 152 of 2020
With
I A CAN 1 of 2020
(Old CAN 899 of 2020)
I A CAN 2 of 2021

Sourav Khan & Others

Vs

The State of West Bengal & Others

Mr. Tapas Kumar Dey,
Mr. Nirupam Sarkar,
Mr. Arunavo Mukherjeefor the Appellants.

Mr. Debsoumya Basak,
Mr. Viswajit Neogifor the Respdt.2 & 3.

Mr. Anirban Roy, ld. GP,
Mrs. Kakali Samajpaty,
Mr. Sayan Gangulyfor the State.

Mr. Debabrata Roy,
Mrs. Atreyee De (Ganguly)...for the Applicants in
I A CAN 2 of 2021.

By consent of the parties, the appeal and the applications are taken up together for hearing.

The appellants approached the learned Single Judge challenging a Notification issued by the State Government dated August 13, 2019 and a communication by the Principal Secretary to the Chairman of the concerned Municipality dated October 21, 2019. The writ petitioners contended that based on those documents, their service was terminated. The Notification of the Government is *ultra vires* to the

Constitution of India and is bad in law. On the basis of such Notification, the service of the writ petitioners could not have been terminated.

The learned Judge observed that whether the appointments of the petitioners were made in accordance with law in the first place has to be decided upon hearing the parties. The learned Judge invited affidavits.

The State says that it is ready with the affidavit and the same can be filed before the learned Single Judge on any day.

We are of the view that the matter should be heard and decided by the learned Single Judge in the first instance. The time for the respondents to file affidavit-in-opposition before the learned Single Judge is extended till one week after the Christmas Vacation. Reply, if any, thereto be filed within a week thereafter.

The parties would be at liberty to mention the matter before the learned Single Judge upon completion of affidavits or upon expiry of the time for filing affidavits.

We have not gone into the merits of the case since the matter is pending before the learned Single Judge.

Since we have not called for affidavits, the allegations in the stay petition are deemed not to be admitted by the respondents.

The appeal being MAT 152 of 2020 along with CAN 899 of 2020 and CAN 2 of 2021 are disposed of.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)