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& Ct. No. 04
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MAT 1271 of 2021
CAN 1 of 2021

**West Bengal Central School
Service Commission & Ors.
Vs.
Sandeep Prasad and others.**

With

MAT 1274 of 2021
CAN 1 of 2021

**Asto Roy and Ors.
Vs.
Sandeep Prasad and others.**

With

MAT 1280 of 2021

**Arijit Mondal & Ors.
Vs.
Sandeep Prasad and others.**

**Mr. Kishore Datta,
Dr. Sutanu Kumar Patra,
Mr. Supriya Dubey.
... for WBCSSC/the appellants in
MAT 1271 of 2021.**

**Mr. Subir Sanyal,
Mr. Kaushik Chowdhury,
Mr. Jasojeet Mukherjee.
... for the added respondents/appellants
in MAT 1274/2021 & MAT 1280/2021**

**Mr. S. N. Mookherjee, Ld. AG,
Mr. Anirban Ray,
Mr. Samrat Sen,
Mr. Bhaskar Prasad Vaisya,
Mr. Jaydip Banerjee,
Mr. Ayan Chakraborty,
Mr. D. N. Mukherjee.
... for the State.**

All the above Mandamus Appeals are taken up together having challenged the order dated 25th November, 2021, whereby and whereunder directions were passed upon the authorities not only to file the tabular sheet annexing the relevant documents but

also to stop the salary of such persons, if their recommendations were made after expiry of the panel.

In MAT 1271 of 2021 filed by the West Bengal Central School Service Commission the challenge is restricted to the portion of the order by which the prayer for filing affidavits dealing with the allegations made in the writ petition was refused.

Indubitably, the Single Bench has shown a serious concern on the irregularities and illegalities committed by different authorities, namely School Service Commission and the Board and the persons benefited therefrom should be dealt with sternly and/or with iron hands. The enquiry was directed to be conducted and, therefore, any order prejudicing such appointments if passed would have a larger impact pending such enquiry.

The enquiry would reveal the truth and if any irregularity or illegality is committed, the same would be dealt with by passing an appropriate directions/orders. The stoppage of salary amidst the enquiry would tantamount to prejudging the issue and such finding would have persuasive impact at the time of final hearing of the writ petition. Furthermore a person suffering an order adversely has a right to be heard, as no person would be penalized or condemned without having an opportunity of hearing.

All the Counsels appearing for the parties unanimously agreed that the order stopping the salary was passed in absence of the appointees as well as in violation of the principle of Audi Alteram Partem. Since the persons, who have approached this Court, were not afforded an opportunity of hearing before the order of stopping the salary was passed, we feel that the order cannot be withstand on the anvil of principles of natural justice.

Accordingly, the portion of the order by which the direction was passed to stop the salary is hereby set aside.

The Single Bench shall pass an appropriate order once enquiry report is submitted after giving an opportunity of hearing to all the interested persons.

Since the enquiry is directed to be concluded within two months from date, we feel that an opportunity must be given to all the contesting respondents to file their responses to the allegations made in the writ petition.

Accordingly, we direct the respondents to file affidavit-in-opposition to all the writ petitions as well as the supplementary affidavit within fifteen days from date; reply thereto, if any, be filed within two weeks thereafter.

With the above observations the appeals are disposed of. Connected applications, if there be any, are also disposed of.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)

