OD-1 ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/1133/2021

SAUKAT ALI
Versus
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
Date : 8th December, 2021.

Appearance :
Mr. S. Das, Adv.
Mr. J. D. Roy, Adv.
... for the petitioner.

Mr. Rudraman Bhattacharya , Adv.
Mr. Souvik Mazumdar, Adv.
Mr. Sourojit Dasgupta, Adv.
... for the respondent.

The Court: Having heard learned Counsel for the petitioner, it appears to this Court that the order dated 22nd November, 2021 passed by a Co-ordinate Bench need not continue any further. The restraint order on publication of the list of eligible Chartered Accountant till November 28, 2021 shall stand vacated. The respondent Institute may go ahead and publish the list.

The writ petitioner complains that he was not communicated the order of cancellation of his Certificate of practice and Certificate of membership of the respondent in terms of the statute. It is therefore submitted that the cancellation is liable to be interfered with and set aside.

The writ petitioner has suffered the consequences of non-payment of annual fees for certificate of practice and for certificate of registration with the respondent ICAI. The payment was made with a delay of about 3-4 months i.e. in September, 2020 when it should have been made within the extended time before May 31, 2020.

The respondent has restored the certificate accepting the petitioner's payment but the certificate of practice has been issued prospectively thereby leaving a gap of one year in the length of practice of the petitioner.

The immediate grievance of the petitioner was that by reason of the interruption in the length of practice the petitioner could not apply for being empanelled in the list for Chartered Accountants for engagement in the audit of banks and public sector of the country. There are some grounds urged, inter alia, that the petitioner was not notified of the cancellation order by the ICAI in terms of The Chartered Accountants Regulations, 1988 and The Chartered Accountants Act , 1949.

This Court is of the view that the respondents may consider the writ petitioner's case afresh.

In that view of the matter, the Council and/or designate of the respondent may consider the petitioner's case treating the writ petition itself as a representation. The writ petitioner may be heard personally.

A reasoned order may be passed considering the petitioner's case with some sympathy.

Let the representation as aforesaid be considered within a period of two months from the date of communication of this order.

It is however made clear that the petitioner shall not be entitled to empanelment the list that has been directed to be published by this Court today. The petitioner shall not be entitled to claim empanelment in the list of Chartered Accountants for being assigned to Banks and Public Sector for the current year.

Accordingly, the writ petition is disposed of.

There shall be no order as to costs.

(RAJASEKHAR MANTHA, J.)

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