

11.05.2022
Item Nos.1+2.
Crt. No.11.
KB/GSD

MAT 626 of 2022
with
IA No. CAN 1 of 2022
Dr. Ramij Rahaman & Another
-Versus-
Dr. Haradhan Maity & Ors.
with
MAT 630 of 2022
with
IA No. CAN 1 of 2022
Indian Statistitcal Institute & Ors.
-Versus-
Dr. Haradhan Maity & Ors.

Ms. Sucharita Biswas
Mr. Biswajit Bhattacharya
... For the Appellants
in MAT 626 of 2022.

Mr. Debapriya Gupta
Mr. Sourav Mondal
... For the Institute in
all the appeals.

Mr. T. M. Siddiqui
Mr. N. Chatterjee
... For the Respondent/Writ
Petitioner in all appeals.

Mr. A. K. Gupta
Mr. Y. K. Sharma
... For UGC in all appeals.

Party/parties is/are represented in the order of
their name/names as printed above in the cause title.

The two appeals arising out of the two connected
writ petitions have had a chequered history. Even before
this Court could examine the merits of the appeals, at
the threshold a point has arisen for determination on
the issue whether the writ petitions out of which these

two appeal arise belong to Group-II or Group-VI determination.

In both the two appeals the Indian Statistical Institute (for short, ISI) is the common respondent, along with others.

By the Order impugned dated 8th of April, 2022 the Hon'ble Single Bench was, *inter alia*, pleased to notice that the point regarding lack of determination of the Bench has been raised by Learned Counsel for the ISI in both the writ petitions after the matter has been heard on considerable dates by the Bench. In such circumstances, the Hon'ble Single Bench deprecated the conduct of the ISI and imposed costs.

Being aggrieved, the ISI is before this Court by way of these two appeals.

By a previous Order of this Court dated 28th April, 2022, the Secretariat of the Hon'ble the Chief Justice was requested to forward a clarification whether the writ petitions and hence these two appeals, should belong to Group-II or Group-VI determination. The Secretariat to the Hon'ble the Chief Justice placed a Report dated 5th May, 2022.

The Report of the Secretariat relies on a Report of the Learned Registrar (IT), High Court at Calcutta, who is the Dealing Officer concerning the respective determination of the Hon'ble Benches.

The Note Sheet of the Learned Registrar (IT), *inter alia*, states that the writ petitions were originally filed with the subject category Code relating to Group-VI determination.

The Note Sheet further states that subsequently on the plea of ISI concerning the lack of determination of the Hon'ble Single Bench taking up Group-VI matters, the same was released and assigned before the Hon'ble Single Bench having determination to deal with Group-II matters.

The clarificatory Report (*supra*) of the Secretariat of the Hon'ble the Chief Justice be retained with the records.

Mr. Debapriya Gupta, Learned Counsel and Ms. Sucharita Biswas, Learned Advocate, have been heard in support of their two appeals respectively being MAT 630 of 2022 and MAT 626 of 2022 arising out of the common Order of the Hon'ble Single Bench dated 8th of April, 2022.

Mr. Siddiqui, Learned Counsel appearing for the Writ Petitioner/ the Private Respondent to the appeals, is also heard.

This Court has also examined the orders on record as well as the compilation of documents showing the allotment of determination to the Hon'ble Benches as

produced by Mr. Siddiqui in the Court at the hearing on the 28th of April, 2022, copy whereof has been served on Learned Counsel for the appellants.

From the documents on record, it is an admitted position that the writ petitions were filed in Gr-VI determination. The writ petitions in Group-VI determination appeared before the concerned Hon'ble Single Bench on the 8th of January, 2021 whereupon the Hon'ble Single Bench was pleased to release the writ petitions for want of determination.

Subsequently, on 11th February, 2021 the writ petitions appeared before another Hon'ble Single Bench holding Group-II determination wherein, on the prayer of Learned Counsel for the writ petitioners, the matters were released from the list.

Subsequently, on 24th February, 2021, 5th March, 2021, 11th March, 2021 and 6th April, 2021, the matters regularly appeared before the Hon'ble Single Bench holding determination connected to cases 'Ready for Hearing (Irrespective of Classification) on Assignment.

Thereafter, on the 27th of August, 2021 upon change of determination in terms of the General Roster of determination prepared by the Order of the Hon'ble The Chief Justice, all matters stood released to be posted

before the Regular Benches. Thereafter, on and from 6th September, 2021 till the date of the passing of the Order impugned dated the 8th of April, 2022, the matter has been appearing before the Hon'ble Single Bench holding Group-II determination.

Without dilating further on the respective merits of the writ petitions being heard in either Group-VI or Group-II determination, considering that all Benches of this Hon'ble Court hold co-equal Jurisdiction to hear matters, the attention of this Court is drawn to the sequence of dates on which the said writ petitions regularly appeared before the present Hon'ble Single Bench holding Group-II determination which passed the Order impugned dated 8th April, 2022. The matter first appeared before the present Hon'ble Single Bench on the 26th of November, 2021 and the Hon'ble Single Bench held as follows:

"26.11.2021

WPA 7680 of 2020

With

IA NO: CAN/ 1/2020

[Via Video Conference]

Learned counsel for the petitioner prays for a fortnights time on the ground of counsel for the private respondents being unwell.

List this matter after fortnight as prayed for.

Thereafter, by further consequential orders referred to below, the same Hon'ble Single Bench was pleased to record as follows:

"10.12.2021

WPA 7680 of 2020

[Via Video Conference]

This is the third occasion when the petitioner seeks an adjournment, this time on the ground of learned counsel receiving the papers only today.

List this matter on 7th January, 2022.

It is made clear that if any further prayer for adjournment is made, the writ petition is dismissed.

"10.01.2022

WPA 7680 of 2020

With

IA NO: CAN/ 1/2020

[Via Video Conference]

Since the appointment complained of was made in 2018 and the writ petition was filed in 2020 and we are now in 2022, this Court is not inclined to pass any interim orders.

Let affidavit-in-opposition be filed within three weeks from date. Reply, if any, be filed within a week thereafter.

List this matter after four weeks.

“02.03.2022

WPA 7680 of 2020

With

IA NO: CAN/ 1/2020

[Via Video Conference]

The respondents pray for extension of time to file their respective affidavits-in-opposition. The time to file such affidavits expired in the 3rd week of January, 2022. Let affidavit-in-opposition be filed within a week from date.

List this matter along with WPA 7682 of 2020 after two weeks.

“21st March, 2022

W.P.A. 7680 of 2020

With

IA No.: CAN 1 of 2020

The affidavits-in-opposition of some of the respondents and the affidavits-in-reply are filed in court today.

Since learned counsel appearing for the petitioner submits that the replies could not be served on the respondents, list this matter on 28th March, 2022, as prayed for.

“28th March, 2022

W.P.A. 7680 of 2020

With

IA No.: CAN 1 of 2020

With

W.P.A. 7682 of 2020

With

IA No.: CAN 1 of 2020

Since adjournment has been prayed for on behalf of the Indian Statistical Institute, list this matter on 1st April, 2022 under the heading “For Orders”.

“1st

April, 2022

W.P.A. 7680 of 2020

With

IA No.: CAN 1 of 2020

With

W.P.A. 7682 of 2020

With

IA No.: CAN 1 of 2020

Learned counsel appearing for the petitioner has made his submissions in W.P.A.7680 of 2020 and seeks to make further submissions in W.P.A.7682 of 2020 on 6th April, 2022.

The last line in the order dated 28th March, 2022 should read as “list this matter.....For Hearing’.

Let the order dated 28th March, 2022 be corrected as indicated above.

“06.04.2022

WPA 7680 of 2020

With

IA NO: CAN/ 1/2020

Learned counsel appearing for the ISI takes the point of this Court not having determination to hear the matter. Counsel submits that the presentation form mentions Group-VI and further that the ISI is not an University.

Learned counsel appearing for the petitioner, shows a website download which reflects that ISI has been recognized by AICTE as a deemed University. It is unfortunate that after four days of hearing, ISI has come up with this point.

Since there is a confusion as to whether this Court has determination or not, list this matter on 8th April, 2022 for counsel to come back with their instructions.”

Finally the Order impugned dated 8th April, 2022 was issued.

Having heard the parties and anxiously considering the materials placed, this Court fails to discover any infirmity in the Order of the Hon’ble Single Judge which, *inter alia*, held that the issue of lack of determination has been raised before the Hon’ble Single Bench after several rounds of hearing and after exchange of affidavits. Due legal process and fair procedure demand that the issue of non-maintainability

should be raised at the earliest before the concerned Bench.

It is apparent from the records that the point on lack of maintainability has been raised before the Hon'ble Single Bench after several dates and even after the exchange of affidavits. Furthermore, the Hon'ble Single Bench exercised jurisdiction *qua* the two writ petitions based on the fact that as on 11th February, 2021 the matters were specifically assigned before the Hon'ble Single Bench holding Group-II determination, a position which remained undisturbed before the present Hon'ble Single Bench also holding Group-II determination on and from the 6th of September, 2021 onwards as well as on the date of the impugned order, i.e. the 8th of April, 2022.

For the reasons aforesaid, this Court finds no infirmity in the Order impugned.

MAT 626 of 2022 with I.A. No. CAN 1 of 2022 with MAT 630 of 2022 with IA No. CAN 1 of 2022 stand accordingly dismissed.

Since further affidavits are not necessary, neither are they invited. Other allegations stand therefore denied.

All parties to act in terms of a copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Ananda Kumar Mukherjee, J.) (Subrata Talukdar, J.)