

SI No.12
28.02.2022.
SB-II

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

**WPA 2585 of 2021
Subinay Saha Roy
-versus
The State of West Bengal & Ors.**

Mr. Jagriti Mishra
... for the petitioner.

Mr. Bikramaditya Ghosh
Mr. Momenur Rahman
... for the State respondents.

Mr. Biswaroop Bhattacharya
Ms. Mayuri Ghosh
... for the University.

The allegation of the petitioner is that the Uttar Banga Krishi Viswa Vidyalaya has engaged the respondent no. 5 to act as a Dean on and from July 25, 2017. The decision to appoint the private respondent as Dean was taken in the 62nd Executive Council Meeting held on July 25, 2017.

The grievance of the petitioner is that the private respondent does not have the eligibility to be engaged as a Dean of the University.

The petitioner submits that he has filed representation before the Vice-Chancellor of the University in December 2020 and alleges that the same has not been

considered till date. The petitioner seeks for issuance of a writ of *quo warranto*.

Learned advocate representing the respondent nos. 3 and 4 submits, upon instruction, that the private respondent has been engaged only to serve as Dean (Acting) of the Faculty of Technology of the University. He has not been given any financial benefits and no substantive right accrues in his favour by way of the said engagement.

It is the specific submission of the University that the petitioner is not eligible to be appointed as the Dean. It has been submitted that as the petitioner has averred in the writ petition that he is working as an Assistant Professor in Civil Engineering, Faculty of Technology and as such he is ineligible to be appointed as a Dean of the University.

The further submission of the University is that the petitioner has approached this Court at a very belated point of time.

The University submits that the writ petition ought not to be admitted by the Court on the ground of inordinate, unexplained delay on the part of the petitioner. The decision to engage the private respondent was taken in July 2017 and the petitioner has approached the Court only in 2021.

In response to the submission of the University that the petitioner is not qualified and eligible to be

appointed as Dean of the University, the petitioner relies upon Sections 2(7), (10) & (28) of the Uttar Banga Krishi Viswa Vidyalaya Act, 2000 to emphasize that the private respondent not being a faculty of the University is ineligible to be appointed as a Dean.

It has been submitted that the private respondent is a researcher in one of the research centres of the University.

It has further been submitted that each and every time the tenure of the private respondent is being extended the illegality that has been committed is being perpetuated and accordingly the Court has the power to issue writ of *quo warranto* to undo the wrong that has been committed by the University.

Without deciding the issue as to whether the private respondent is eligible to be engaged as a Dean by this Court, the matter is referred back to the University for taking a decision.

The petitioner has already submitted a representation before the Vice-Chancellor of the University on December 9, 2020. Let the said representation filed by the petitioner on December 9, 2020 be considered by the Vice-Chancellor of the University strictly in accordance with law, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

The aforesaid respondent shall afford an opportunity of hearing to the petitioner and all other necessary parties to take a decision in the matter.

The said respondent shall pass a reasoned order and communicate the same to all the parties immediately thereafter.

It is made clear that this Court has not entered into the merits of the claim of the petitioner and all points are left open to be decided by the said respondent at the time of consideration of the representation of the petitioner.

As the writ petition is being disposed of without calling for any affidavits, the allegations made in the writ petition are deemed not to have been admitted.

The writ petition stands disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)