

15.02.2023
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**M.A.T. 118 of 2023
With
I.A. No. CAN 01 of 2023**

**Arun Kumar Sarkar & Ors.
Vs.
The High Court at Calcutta and Ors.**

With

M.A.T. 119 of 2023

**Arun Kumar Sarkar & Ors.
Vs.
The High Court at Calcutta and Ors.**

Mr. Subir Sanyal,
Ms. Sumouli Sarkar,
Mr. Sagnik Roy Chowdhury for the appellants.

Mr. Jaydip Kar, Sr. Adv.,
Mr. Siddhartha Banerjee,
Mr. Soumajit Majumder
... for the High Court Administration.

These intra-Court appeals filed by the writ petitioners /appellants in WPA No.1165 of 2023 and WPA 903 of 2023 are against the order dated 16th January, 2023 in and by which the learned Writ Court refused to grant any interim order restraining the High Court Administration from conducting the examination on 17th February, 2023 for promotion to the posts of Assistant Registrar.

Mr. Subir Sanyal, learned Advocate appearing for the appellants, would submit that if the examination is conducted, the right of the writ

petitioners would be grossly affected and the writ petitions itself are liable to become infructuous. Further, it is submitted that pursuant to the orders passed by the learned Single Bench, impugned in these appeals, viva-voce / oral interview has been directed to be conducted on 3rd March, 2023. Therefore, it is submitted that appropriate interim order should be granted by restraining the High Court Administration from conducting examination, which is scheduled to be held on 17th February, 2023.

In our considered view, the recruitment process has already begun pursuant to the issuance of the notification. Candidates have all applied and in fact, the writ petitioners are also candidates, who are slated to take examination on 17th February, 2023 as they fall within the zone of consideration.

In such circumstances, it would be inequitable to stall the examination process, more particularly when the stand of the High Court Administration is that the examination is being conducted in accordance with the relevant rules.

In any event, the writ petitions have been directed to be listed before the learned Single Bench on 22nd February, 2023. Therefore, this Court is of the view that no case has been made out to stall the examination scheduled to be conducted on 17th February, 2023. However, it is clarified that the writ petitioners, who will

be appearing in the examination shall be doing so without prejudice to their rights and contentions in the writ petitions.

Since the writ petitions have been directed to be listed before the Learned Single Judge on 22nd February, 2023, it will be well open to the appellants / writ petitioners to make appropriate submissions before the Learned Single Bench and seek for further orders.

It has been pointed out that the learned Single Bench in the impugned order had directed the High Court Administration to place certain documents and also the written instructions. In our view, the written instructions shall be in the form of an affidavit, which will assist the Learned Writ Court to take a decision on the matter. Therefore, we direct the appropriate authority of the High Court Administration to file an affidavit stating the relevant facts in order to assist the learned Writ Court to come to a conclusion.

It is made clear that we have not gone into the merits of the matters and any observation contained in this order shall, in no manner prejudice the rights of the writ petitioners in the pending writ petitions.

With the above observations, the appeals along with the connected application are disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya , J.)