

20.11.2023
M.L.247
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. 1174 of 2012

Dhiren Chandra Dutta & ors.
Vs.
The State of West Bengal & ors.

Mr. Ekramul Bari
Ms. Tanuja Basak
... for the petitioners

Mr. Gourav Das
Mr. R. Mukherjee
... for the State

This is the second round of litigation on the same set of facts.

Mr. Ekramul Bari, learned Counsel appears for the petitioners.

The petitioners' case is that the petitioners prayed for an approval of their services from the date of the upgradation of the institution.

Drawing attention to an order of a coordinate Bench dated May 12, 2011, annexure P3 at page 23 to the writ petition, he submits that while disposing of the writ petition directing the respondent no.3 to decide the issue, the said respondent should have considered a particular Government order dated December 20, 1984 as would appear from page 28 to the writ petition.

Learned Counsel for the petitioners then placed the impugned order dated August 3, 2011 passed by the

respondent no.3 and submits that without considering the said Government order as directed by the coordinate Bench, the impugned order was passed and the claim of the petitioners was denied. He submits perversity is glaring on the face of the impugned order.

Mr. Gourav Das, learned State Counsel appears for the respondent nos.1 to 3.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, it appears that the said Government order dated December 20, 1984 as mentioned by the previous coordinate Bench in its order dated May 12, 2011 was not taken into consideration.

It appears to this Court that the said Government order might have some bearing in the matter.

In view of the above, the impugned order dated August 3, 2011, annexure P4 at page 30 to the writ petition, stands set aside and quashed.

The respondent no.3 is directed to revisit the issue strictly in conformity with the direction made by the previous coordinate Bench dated May 12, 2011, annexure P3 at page 23 to the writ petition and decide the issue by passing a reasoned order strictly in accordance with law on the basis of the existing materials before him on consideration whereof the said impugned order dated August 3, 2011 was passed. The respondent

no.3 must and should consider the said Government order dated December 20, 1984 while passing his reasoned decision.

The entire exercise as directed above shall be carried out and completed by the respondent no.3 positively within a period of three weeks from the date of communication of this order. The respondent no.3 shall then communicate its order to the petitioners within a further period of one week from the date of the said reasoned order to be passed.

With the above observations and directions, this writ petition **W.P.A. 1174 of 2012** stands **allowed** without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)