

1, 3-12 12-04-2023
AKG
Ct. 238

WPA 3916 of 2010
Dr. Krishnendu Sengupta
Vs.
Union of India & Ors.

With
WPA 3918 of 2010
Dr. Manas Mukherjee
Vs.
Union of India & Ors.

With
WPA 3919 of 2010
Dr. Suhrit Ghosh
Vs.
Union of India & Ors.

With
WPA 3920 of 2010
Dr. Parthasarathi Dastidar
Vs.
Union of India & Ors.

With
WPA 3922 of 2010
Dr. Satrajit Adhikari
Vs.

State of West Bengal & Ors.
With

WPA 3924 of 2010
Dr. Ankan Paul
Vs.

Union of India & Ors.
With

WPA 3925 of 2010
Dr. Siddhartha Sankar Jana
Vs.

Union of India & Ors.
With

WPA 3926 of 2010
Dr. Narayan Pradhan
Vs.

Union of India & Ors.
With

WPA 3927 of 2010
Dr. Surajit Sinha
Vs.

Union of India & Ors.
With

WPA 3928 of 2010
Dr. Tapan Kanti Paine
Vs.

Union of India & Ors.
With

WPA 3929 of 2010
Dr. Sugata Ray
Vs.

Union of India & Ors.

Mr. Bikash Ranjan Bhattacharyya,
 Mr. Samim Ahammed,
 Mr. Arka Maiti

...for the Petitioner

Mr. Kumarjit Das,
 Ms. Mou Saha

...for the Respondent Nos. 2 to 4.

This batch of writ petitions is being heard following an order passed by the Hon'ble Supreme Court dated January 16, 2023 in Civil Appeal Nos. 369-378 of 2023 (Arising out of SLP (C) Nos. 23905-23914 of 2018).

It appears that these writ petitions were heard together by a learned Single Bench of this Court and the said Bench by an order dated August 17, 2010, dismissed the writ petitions as not maintainable, citing a decision of the Hon'ble Division Bench of this Court. The Division Bench held that Indian Association for the Cultivation of Science ('the Association' in short) is not a State within the meaning of Article 12 of the Constitution of India, nor does it qualify as an instrumentality or agency thereof.

The order dated January 16, 2023 was carried in appeal by the writ petitioners and a Division Bench of this Court by an order dated May 10, 2018 affirmed the order of the learned Single Judge.

Subsequently, this matter went up to the Supreme Court at the instance of the writ petitioners by filing the Special Leave petitions as referred to above and the Supreme Court ultimately, overturned the findings of this

Court and held that the Association is a State within the meaning of Article 12 of the Constitution of India.

In view of the aforesaid judgment of the Supreme Court, this batch of writ petitions is taken up for hearing on merit.

It has been submitted by Mr. Bikash Ranjan Bhattacharyya, learned senior advocate that the petitioners were appointed in the year 2008 as teaching staff with a specified scale with five increments.

By a subsequent order dated January 4, 2010, the Director of the Institution decided that the members of the staff, who joined the Association on or after January 1, 2006, advance increment might be allowed only to protect pay, who had been working elsewhere. Consequent upon the decision, the pay of the petitioners was revised in new pay structure on the respective date of their joining the post in the Association.

The petitioners were aggrieved by such order and filed this batch of writ petitions before this Court.

Mr. Kunaljit Das, learned advocate appearing for the Association fairly submits that the impugned decision with regard to the denial of incremental benefits to the petitioners was taken without consulting the Governing Council of the Association, though at the time of appointments, such benefits were conferred upon the petitioners on the recommendation of the selection committee and the approval of the Governing Council.

He submits that the Association is willing to obtain

the views of the Department of Science and Technology, Union of India on the issue.

In view of the fair stand of the Association, I do not see any justification to keep the matter pending. I dispose of the writ petition with a direction upon the Governing Council of the Indian Association for the Cultivation of Science to revisit the matter and send its view to the Department of Science and Technology, Union of India. Such exercise should be completed by the Association within a period of three months from date. After arriving at a decision, it shall seek the view from the Department of Science and Technology immediately thereafter. The Department of Science and Technology shall take a decision on the issue within a period of one month thereafter.

With this aforesaid observation, **WPA 3916 of 2010, WPA 3918 of 2010, WPA 3919 of 2010, WPA 3920 of 2010, WPA 3922 of 2010, WPA 3924 of 2010, WPA 3925 of 2010, WPA 3926 of 2010, WPA 3927 of 2010, WPA 3928 of 2010 and WPA 3929 of 2010** are disposed of.

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

(Kausik Chanda, J.)