

08 22.8.2023
Ct-08

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MAT 1497 of 2023
with
I.A No. CAN 1 of 2023

Purba Bardhaman Distrcit
Primary School Council
Vs.
Sanjoy Ghosh & Ors.

Mr. Saibal Kumar Acharyya
Mr. Tanweer J. Mandal
... For the Appellant

Mr. Firdous Samim
Ms. Gopa Biswas
Ms. Payel Shome
Ms. Samapti Saha
Ms. Purba Mukherjee
... For the Respondent no. 1

Mr. Rajarshi Basu
Mr. Parikshit Goswami
... For the State

Mr. Ratul Biswas
Mr. Kaushik Chowdhury
... For WBBPE

1. We have heard the learned counsel
appearing for the parties.

2. Although the act of the Chairman of
D.P.S.C is not condonable as he could not
delegate the power of affirming an affidavit to one
upper division clerk, however, having regard to
the fact that the Chairman has filed an affidavit
subsequently on 25th July, 2023 prior to the
matter being disposed of by the learned Single
Judge and the matter was finally decided by
filing an affidavit by the D.I (Primary Education),
the direction upon the Principal Secretary,

School Education Department, to ask the Chairman to go for leave and he should not be engaged to any responsibility is not sustained subject to compliance of the direction given in this order. However, we direct the Chairman to pay cost of Rs.10,000/- to the State Legal Services Authority within two weeks from date from his own pocket and not from State fund for such reckless and irresponsible act he has done in dealing with the matter and delegating the power of affirming an affidavit to one upper division clerk contrary to the dictate of the statute. Any such future act of this nature if done, the Principal Secretary in such situation would be entitled to replace the Chairman.

3. If the Chairman is not keeping good health and unable to discharge his function the Principal Secretary shall consider replacing the Chairman as the post of Chairman is a very important post with responsibilities.

4. In the event the cost is not paid by the Chairman within the stipulated time, the impugned order with regard to replacing the Chairman shall stand revived.

5. On such consideration, the appeal is allowed.

6. In view of the aforesaid order, the appeal being MAT 1497 of 2023 stands disposed of.

7. In view of disposal of the appeal nothing remains to be decided in the application for stay being CAN 1 of 2023 and the same is accordingly disposed of.

8. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)

