

05.04.2024
SI No.2
Court No.8
(gc)

CPAN 299 of 2024
In
MAT 1731 of 2023

Rinku Sarkar
Vs.
Mr. Samaresh Mondal, The Principal,
Berhampore College & Ors.

Mr. Prosenjit Mukherjee,
Ms. Manisa Mandal
...for the Petitioner.

Mr. Achyut Basu,
Ms. Punam Basu,
Mr. Rupchand Chakraborty,
Mr. Srikumar Chakraborty,
Ms. Pritha Biswas
...for the Contemnor No.1.

Mr. Subhrangsu Panda,
Ms. Mithu Singha Mahapatra
Ms. Ina Bhattacharyya,
...for the W.B.C.S.C.

Mr. Biswabrata Basu Mallick, A.G.P.,
Ms. Sucheta Pal
...for the State.

1. The Principal, Berhampore College, the alleged contemnor No.1, is personally present in Court today.
2. In the affidavit filed by the alleged contemnor no.1, the request for creation of a supernumerary post has been disclosed. It appears that by a letter dated 2nd March, 2024, the Director of Public Instructions (D.P.I) was requested either to create a supernumerary post or to accommodate her in any nearby College subject to the approval of the D.P.I.

3. However, as rightly pointed out by the learned Counsel for the petitioner that in view of our order dated 15th March, 2024, the Principal of the College could not have made allegations against the petitioner.
4. The Principal of the College has tendered unconditional apology for the contents of the said letter. In view of the subsequent communication dated 2nd March, 2024 and tendering unconditional apology by the Principal of the College in Court today, we direct the Principal to withdraw the letter dated 2nd March, 2024 by a communication to the D.P.I. within one week from date and dispense with his further appearance for the time being
5. Mr. Biswabrata Basu Mallick, learned A.G.P. appearing on behalf of the State has submitted that that the State has preferred a Special Leave Petition before the Hon'ble Supreme Court being Special Leave Petition (Civil) Diary No(s). 11987/2024 in which an order was passed on 2nd April, 2024. The Hon'ble Supreme Court observed that no coercive steps shall be taken against the Officers of the petitioner-State for creation of supernumerary posts or adjust respondent No.1 in a nearby

College as directed in paragraph 6 of the impugned order.

6. Mr. Basu Mallick has submitted that the issue is required to be considered by the College Service Commission as the said Commission is the recommending authority. Mr. Basu Mallick has also submitted that the D.P.I. has no objection if the College Service Commission takes a decision in this regard and appropriate pay scale can be granted to the petitioner subject to the approval by the College Service Commission.
7. However, Mr. Subhrangsu Panda, learned Counsel appearing on behalf of the College Service Commission has rightly pointed out that the College Service Commission in the instant case cannot recommend as the selection process is over and unless a fresh selection is made, the question of recommendation could not and does not arise.
8. In view of the order passed by the Hon'ble Supreme Court on 2nd April, 2024, the contempt application shall stand adjourned for a period of three months for the time being with liberty to mention in

the event the Special Leave Petition is disposed of in the meantime.

9. A copy of the order dated 2nd April, 2024 is kept with the record.

(Soumen Sen, J.)

(Uday Kumar, J.)