

06.02.2024
Item No.04
Court No.11
Avijit Mitra

CO.CT 1 of 2024
with
IA No. CAN 1 of 2024

In re: An application under Article 226 of the Constitution
of India;

And

Union of India & ors.
-Versus -
Dwaipayan Ghosh & ors.

Mr. D.N. Ray,
Mr. L. Vishal Kumar,
Mr. Rajesh Kumar Shah
...for the petitioners
Mr. Lakshminath Bhattacharya,
Md. Zeeshanuz Zaman,
Mr. Swapnamoy Mondal
...for the respondent no.1

Affidavit-of-service filed by the petitioners be kept on
record.

The present writ application has been preferred
challenging an order dated 18th August, 2023 passed by the
learned Central Administrative Tribunal, Calcutta in the
original application being OA No.1061/2023. By the said order,
the learned Tribunal granted an *ad interim* relief allowing the
applicant/respondent no.1 herein to submit his application in
response to the notification dated 31st July, 2023 and the
respondents therein were directed to accept the said application
of the applicant through *offline* mode or to make an

arrangement to accept his application through *online* before the last date of submission of application.

As we have invited Mr. Roy, learned advocate appearing for the petitioners, to advance his argument on merits of the matter, the delay in filing the present application is condoned and the application being IA No. CAN 1 of 2024 is disposed of.

Mr. Roy submits that respondent no.1 passed the matriculation examination from Visva Bharati. The said examination was not conducted by any recognised Board of School Education by the State Government and accordingly, the name of Visva Bharati was not included in the drop-down list in the *online* portal. In support of such contention, he has placed reliance upon a letter dated 21st January, 2022 issued from the Ministry of Communication wherein the name of Visva Bharati does not feature. Such argument, as advanced, was glossed over and the learned Tribunal erroneously directed the petitioners to accept the application of the respondent no.1 for the post through *offline* mode.

Per contra, Mr. Bhattacharya, learned advocate, assisted by Md. Zeeshanuz Zaman, learned advocate, appearing for the applicant/respondent no.1 herein submits that the matriculation examination of the respondent no.1 was conducted by a Board recognised by the State of West Bengal but the petitioners erred in not including Visva Bharati in the drop-down list in the *online* portal rendering it impossible for the respondent to participate in the selection process and in appreciation of such fact situation the learned Tribunal rightly passed the order impugned.

He further submits that the said order was passed on 18th August, 2023 and upon exchange of reply and rejoinder, the matter has been fixed for final hearing on 12th February, 2024.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Upon considering the contents of the notification and other relevant documents, the learned Tribunal arrived at a finding supported with reasons that a *prima facie* case had been made out towards grant of *ad interim* order in favour of the respondent no.1 and passed the interim order *in toto* when the denial of such relief would have caused irreparable loss to the said respondent no.1.

We have been informed that the pleadings have been exchanged by the parties before the learned Tribunal and the matter has been fixed for final hearing on 12th February, 2024.

In answer to our query Mr. Roy submits that no application for vacating the *interim* order passed on 18th August, 2023 was filed by the petitioners.

In the said conspectus, we are not inclined to interfere with the discretion exercised by the learned Tribunal in favour of the respondent no.1.

The writ petition being CO.CT 1 of 2024 is, accordingly, dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)