

**20.08.2024**  
**sayandeep**  
**Sl. No. 04**  
**Ct. No. 08**

**FMA 940 of 2024**  
**With**  
**CAN 1 of 2024**

Dr. Amitra Sudan Chakraborty  
Vs.  
The State of West Bengal & ors.

Dr. Amitra Sudan Chakraborty  
... appellant in-person

Mr. Swapan Kr. Dutta  
Mr. Dipankar Das Gupta  
..... for the State

Mr. Anil Kr. Gupta  
.... for the UGC

Mr. Jasobanta Rakshit  
.... for the respondent No. 11

Mr. Mani Sankar Gangopadhyay  
.... for the respondent nos. 12-15

Learned counsel for the appellant prays for release from the brief as the appellant intended to argue the matter in-person. The no objection is also handed over to the appellant in Court today. We permitted the appellant to appear and argue the matter in-person.

Several issues are raised in the instant mandamus appeal after the writ petition was dismissed on the ground that the application under Article 226 of the Constitution of India is not maintainable against the Seacom Skill University which is the private University and, therefore, does not come within the purview of an authority enshrined under Article 12 of the Constitution of India. The Judgment of the Apex Court rendered in **St. Mary's Education Society & anr. Vs. Rajendra**

**Prasad Bhargava & ors.** reported in **(2023)4 SCC 498**

was considered by the Single Bench wherein it is held that even the discharge of the duties by the University or colleges or the School has the involvement of the public element but the moment the disputes pertain to its employees vis a vis the University or schools or colleges there is no involvement of public duties or the public element and, therefore, the writ in this regard is no maintainable.

Our attention is drawn to the Seacom Skill University Act, 2014 promulgated on April 10, 2014 which contained an exhausted provision relating to the Seacom Skill University to be established and the object and the purpose underlying such establishment. It is no doubt true that the primary object is to impart education to the Section of the societies in various fields and the reciprocal obligations not only in relation to the students of the said University but its staff and employees are also to be regulated and governed by the said Act. It appears from Section 19 of the said Act that the Registrar has to be appointed in every such University by the Chancellor on the recommendation of their sponsoring trust and may discharge certain duties envisaged therein. The said Act further provides the framing of a first Statute of the University and the power of the appropriate authority to frame Rules and/or regulations in relation to the activities of such Universities.

Undeniably, there is no first Statute framed by the governing body under the said Act nor we find any specific regulations having been framed in exercise of the Regulation making powers provided in the said Statute. However, the State Government framed the Seacom Skill University Rules, 2018 in exercise of the Rule making powers contained in the parent Act which was duly notified in the Calcutta Gazette Extraordinary on January 4, 2019. It is beyond cavil of doubt that there is a Rules which has statutory flavor and, therefore, the University cannot act in contravention to the provisions contained therein nor any employee or the staff or the persons included therein should be permitted to transgress the limits of the said Rules. In other words, if the Rule provides a particular mechanism or the forum to be approached to vindicate the grievance so raised unless that forum is approached, it would not be proper for the writ Court to entertain the writ petitions.

We are conscious that mere existence of alternative remedy does not take away the power of the writ Court in a deserving matter but the Courts have imposed self-restraint in entertaining the writ petition if there is an existence of the other remedies or the alternative remedies to the aggrieved person. It is a Rule of discretion than of compulsion. We find from the said Rules that a forum has been provided where the approach can be made by an employee or the body of

the employees raising a grievance and such forum is vested with the powers to take a decision. In this regard, the reference can be made to Rule 8 of the said Rules which says that the Regulatory Committee constituted under the said Rules are also an adjudicatory body and the decisions shall be deemed to have been made under the Arbitration and Conciliation Act, 1996.

Though we find from the impugned order that the writ petition was dismissed on the ground of maintainability of the writ petition against the University but without venturing to go into the aforesaid aspects and in order to render justice, we feel that once the Statute has provided a forum, liberty must be given to the aggrieved persons to exhaust such remedy. Keeping the point whether the writ petition is maintainable against the private University undecided, we feel that the justice which is paramount would be sub-served if the appellant approaches the Regulatory Committee under the aforesaid Rules of 2018.

Accordingly, the mandamus appeal is disposed of permitting the appellant to make an application to the Member Secretary of the West Bengal State Council of Higher Education who also acts as a Member Secretary of the Regulatory Committee within 7 days from date. On such approach being made making a grievance so raised in the instant writ petition as well as the mandamus appeal, the Regulatory Committee shall

decide the disputes by following the mandates of the various provisions contained in the said Rules of 2018 within two months from the date of the submission of the said grievance by the appellant. It goes without saying that the Regulatory Committee shall adhere the principles of natural justice and afford an opportunity of hearing to all interested persons and shall record the reasons in accordance with law.

With these observations, the appeal and the connected application are disposed of.

**(Harish Tandon, J.)**

**(Prasenjit Biswas, J.)**