

105 **05.08.**
2024
Ct. No. 08

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MAT 1509 of 2024
IA No. CAN 1 of 2014
IA No. CAN 2 of 2024

Bhawani Saran Srivastav
Vs.
Soma Roy and others.

Mr. Anjan Bhattacharya.
... for the appellant.

Ms. Sampriti Saha.
... for the writ petitioner/respondent no. 1.

Mr. Biswabrata Basu Mallick, Ld. AGP,
Mr. Biman Halder.
... for the State.

Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey.
... for the WBCSSC.

Ms. Koyeli Bhattacharyya,
Mr. Bibek Dutta.
... for the WBBSE,

Mr. Kanai Lal Samanta.
... for the respondent no.11.

Mr. Ekramul Bari,
Mr. Sk. Imtiaj Uddin.
... for Digendra Nath Barman.

Re: CAN 1 of 2024

The issue, which is independent and separate from the issues involved in the writ petition, is sought to be projected in the instant application seeking leave to appeal as an aggrieved person.

Admittedly, assailing the selection process for the year 2016, the writ petition was filed and in course of hearing, the Single Bench transpires many illegalities and in pursuit of justice to be imparted passed several interlocutory orders, two of which are sought to be challenged by a third party to the proceeding in the instant appeal.

By an order dated 9th July 2024, the Single Bench found that the appointments of two persons, namely, Digendranath Barman and Bhawani Saran Srivastav, the appellant herein, were made not only in execution of a civil decree but also on the basis of an order passed in the writ petition by this Court respectively. The Single Bench was, in fact, considering the report of the Commissioner of Education dated 8th July 2024 and further found that there are some doubts over the authenticity and veracity of some orders passed in some matters, as mentioned in the letter and Criminal Investigation Department was directed to return the report to the custody of the learned Registrar General of this Court.

The authenticity and genuinity of the orders passed in a judicial proceeding was directed to be verified by the learned Registrar General obviously for the reason that the person getting benefited on the basis of the aforesaid orders should be suitably dealt with in accordance with law in the event the orders are found to be fabricated and/or genuine.

There is no other direction, which could be perceived from the said order having impinged upon any right of the appellant in relation to the said proceeding. A person can be aggrieved provided the order affects his status or the right accrued to it but not on a mere disclosure of the name in a judicial proceeding.

The Court has not arrived at a conclusive opinion whether the appointment of the appellant is illegal or an outcome of a fraud or based upon a fabricated document. Obviously, while arriving at such decision, the Court shall implead the person as a party and shall afford a fullest opportunity to defend the same.

Interestingly, though the aforesaid direction was passed on 9th July 2024 and the direction was also passed upon certain authorities to appear in person and upon hearing, the aforesaid authorities, who appeared

through virtual mode, made a simple direction upon the Additional Government Pleader to take instruction from the Director of Public Instruction as to whether any disciplinary proceeding has been initiated against Dr. Shaikh Sorajuddin, the Principal, Saldiha College, now under suspension and in jail custody.

Admittedly, the appellant did not appear on the said date, though Mr. Ekramul Bari, learned Advocate, appears for another person, namely, Digendranath Barman, whose appointment was on the basis of the decree passed in a civil proceeding. The Court simply adjourn the matter in anticipation of such disclosure and further recorded that the Members of the Committee shall ensure that necessary exercise will be carried out to find out the doubtful cases of appointments of teachers in different government schools of the State.

The aforesaid direction was perceived by the appellant to affect his right as he has been included within the category of doubtful cases by an authority and, therefore, he would be regarded as an aggrieved person.

Even after we find that the scope and jurisdiction is being exceeded, there is no difficulty on part of the Court to take corrective measures and afford an opportunity of hearing to any person, who, in its opinion, is the necessary and proper party and to be afforded an opportunity of hearing to defend the case against him.

The stage has not come nor we find that the directions passed on 9th July 2024 or 23rd July 2024 make the appellant an aggrieved person to prefer an appeal against the aforesaid orders.

The application for leave to appeal is, therefore, dismissed. Consequently, the connected applications are also dismissed

However, dismissal of the appeal shall not prevent the appellant to take appropriate steps before the Single Bench in pending writ petition, if so advised, and it goes

without saying that the Single Bench shall take a decision on such approach in accordance with law.

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

Urgent Photostat certified copy of this order, if applied for, be given to the parties within two days from the date of the application.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)