

MAT 1569 of 2023

with

I.A No. CAN 1 of 2023

CAN 2 of 2023

Prof Dr. Md. Ayyoob

Vs.

Imtiaz Hussain & Ors.

Mr. Biswaroop Bhattacharyya
Md. Zohaib Rauf
... For the Appellant

Mr. Soumya Majumdar
Mr. Amritam Mondal
Ms. Shipra Naskar
... For the Respondent no. 7

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

2. CAN 2 of 2023 is an application for leave to prefer an appeal against the judgment and order dated 27th July, 2023 passed in a writ petition being WPA No. 8255 of 2022. The applicant claims to be the President of the State Council of Unani Medicine. He filed a writ petition being WPA No. 158 of 2022. In the writ petition the applicant had prayed for washing of the resolution dated 2nd December, 2021 and restraining the respondents from giving any further effect for constitution of an Executive Committee. It has been fairly submitted by the learned counsel representing the applicant that the tenure as President in the said Council has expired and when he filed the application it was

purely on a derivative cause of action as he made allegation against the Council as a whole.

3. During the pendency of the writ petition it appears that the writ petition filed by Imtiaz Hussain being WPA No. 8255 of 2022 was disposed by directing the State Council of Unani Medicine to allow Imtiaz Hussain, the respondent no. 1 herein, to resume his duty as Registrar of the respondent Council and ask the present Registrar-in-Charge of the respondent Council to hand over the charge of the office of the Registrar of State Council of Unani Medicine, West Bengal to Imtiaz Hussain. Moreover, in view of the pendency of the public interest litigation where serious allegations have been levelled against Mr. Imtiaz Hussain, the learned Single Judge could not have directed Imtiaz Hussain to resume his duty.

4. In view of the fact that the resolution under challenge in the writ petition filed by the present applicant has not been stayed and the writ petition filed by Imtiaz Hussain was disposed of in the mean time, we are not inclined to give any leave to prefer an appeal to the applicant/appellant as we feel that the writ petitioner could have approached the learned

Single Judge for addition of party with consequential prayer and also could have brought it to the notice of the learned Single Judge regarding the issues involved in the public interest litigation. Moreover, we have been informed that the issue of fake registration alleged to have been issued at the instance of Imtiaz Hussain is one of subject matters in the public interest litigation, pending before the Hon'ble Chief Justice. We have also taken note of the fact that the present applicant is not a party to the writ petition filed by Imtiaz Hussain.

5. On such consideration we decline leave. In the event any appropriate step in accordance with law is taken by the applicant, any observation made in this order shall not prejudice the outcome of such proceeding.

6. Since this appeal and connected application are disposed of without calling for any affidavit, the allegations made therein are deemed to have been denied.

7. In view of the above, CAN 2 of 2023 stands disposed of along with CAN 1 of 2023. The appeal is accordingly disposed of.

8. However, there shall be no order as to costs.

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

(Uday Kumar ,J.)

(Soumen Sen, J.)