

11.07.2024
Item No.102
Monthly List
Court No.26
CHC
(disposed of)

WPA (P) 470 of 2023

Sri Jyoti Prakash Khan
Vs.
The State of West Bengal

Mr. Tapan Kr. Mukherjee, Id. Sr. adv.
Mr. Jayanta Samanta, Jr. Govt. Adv.
Mr. Somnath Naskar, Advocate
Ms. Paromita Malakar, Advocate
... ... For the State

None appears for the petitioner.

State is represented.

Learned senior advocate appearing for the State draws the attention of the Court to the order dated July 8, 2024 passed in Special Leave to Appeal (Civil) No. 17403 of 2023. He submits that, the subject of the present Public Interest Litigation was dealt with by the Hon'ble Supreme Court by such order. He refers to the prayers in the writ petition as well as the directions issued by the Hon'ble Supreme Court in the order dated July 8, 2024. He invites the Court to dispose of the Public Interest Litigation in such circumstances.

We find from the records that the writ petitioner approached the Court with the following prayers :-

“a) This Hon’ble Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other writ or order under Article 226 of the Constitution of India quashing the impugned Circular dated 22.08.2023 issued by the Governor as the same is fraud on the Constitution of India;

b) To issue a writ in the nature of mandamus directing the State Respondent to rescind cancel

recall and set aside the Circular dated 22.08.2023 as the same is issued by the Governor exercising his discretion independent of, or contrary to aid and advise of the council of ministers premised on Article 163(2) of the Constitution of India.

c) To issue a writ in the nature of mandamus directing the state respondent and each one of them to give no effect of the Circular dated 22.08.2023 as the Governor by issuing the said Circular converted him to an all-pervading super constitutional authority which is clearly not envisaged under the Constitution.;

d) To issue a writ in the nature of mandamus directing the state authorities to cancel the said Circular dated 22.08.2023 as the Governor had acted malafide in issuing the said Circular by giving go by to the constitutional morale, and ethics.

e) To issue a writ in the nature of certiorari calling upon the state respondent to certify and transmit the records pertaining to issuance of illegal and unconstitutional Circular dated 22.08.2023 issued by the Governor without the aid and advise of the Council of Ministers headed by the Chief Minister.

f) Rule Nisi in the terms of prayers (a), (b), (c), (d), (e), (above;

g) To pass ad-interim order of injunction directing the state respondents and each one of them, their men, agents and/or sub-ordinates not to give any effect to the Circular issued by the Governor dated 22.08.2023 in violation of constitutional provisions and several judgements of the Hon'ble Supreme Court to the effect that the Governor cannot take decision to exercise his

discretion independent of, or contrary to aid and advise of council of ministers premised on Article 163(2) of the Constitution of India;

h) To passed interim order of injunction in terms of prayers (g);

i) Make the Rule absolute if no cause or insufficient cause is shown;

j) To issue any other suitable writ/writs, order/orders, direction/directions which this Hon'ble Court may deem fit and proper;

k) Costs;"

Present writ petition raises the issue of validity of appointment of Vice-Chancellor for the Rabindra Bharati University.

Controversy relating to appointment of Vice Chancellors in State aided Universities is receiving the consideration of the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No.17403 of 2023.

The Hon'ble Supreme Court in the order dated July 8, 2024 passed in SLP (Civil) No. 17403 of 2023 noted that there was approximately 35 State-aided Universities in the State of West Bengal where controversy exists with regard to appointment of Vice Chancellor. The Hon'ble Supreme Court formulated a mechanism by such order to find out suitable candidates for the purpose of appointment as Vice Chancellor of such State aided Universities.

The issues raised in the present writ petition apparently are issues in the Special Leave to Appeal (Civil) No. 17403 of 2023 in which Hon'ble Supreme Court passed the order dated July 8, 2024.

In such circumstances, no useful purpose will be subserved by keeping the present Public Interest Litigation pending. Moreso, the writ petitioner is no

longer interested in proceeding with the present Public Interest Litigation.

WPA (P) 470 of 2023 is **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Partha Sarathi Sen, J.)