

**10.01.
2025**

Ct. No. 08

Ab

MAT 462 of 2020

**IA No. CAN 1 of 2020 (Old No. CAN 3578 of 2020)
IA No. CAN 2 of 2020 (Old No. CAN 3580 of 2020
IA No. CAN 3 of 2020 (Old No. CAN 3581 of 2020
IA No. CAN 4 of 2020 (Old No. CAN 3583 of 2020
IA No. CAN 5 of 2020 (Old No. CAN 3584 of 2020
IA No. CAN 6 of 2020 (Old No. CAN 4168 of 2020
IA No. CAN 7 of 2020
IA No. CAN 8 of 2020
IA No. CAN 9 of 2021
IA No. CAN 10 of 2022**

**United Students And Research Scholars Association
and another**

Vs.

The State of West Bengal and others.

**Mr. Debasish Saha,
Mr. Dibasish Basu,
Ms. Sucheta Pal.**

... for the appellants.

Mr. Tapas Kumar Dey.

... ... for the State.

Mr. Anil Kumar Gupta.

....

... for the UGC.

Mr. Debashis Banerjee.

... for the respondent nos. 18 to 24.

Mr. Sudipta Dasgupta,

Mr. Arkadeb Biswas.

... for the applicant in CAN 7 of 2020.

Several applications are taken out in the instant mandamus appeal; some of which pertain to early hearing of the appeal, some at the behest of the third parties seeking their addition as party respondents and the one seeking addition as respondents though their application filed before the Single Bench was allowed. Apart from the same, an application for an order restraining the respondents from giving further effect to the order dated 23rd December 2019, which is the subject matter of challenge of the writ petition, is also filed at the behest of the appellants.

Without venturing to go into the several applications, which are ten in numbers, we decided to hear out the appeal whether there is any ground warranting interference with the impugned order.

At the very outset we must record that the instant mandamus appeal arise from an order dated 24th February 2020 by which two applications seeking addition was disposed of and the direction for passing the affidavits was issued so that the writ petition can be finally disposed of.

Perceiving such direction as implied refusal to pass an interim order, the present appeal is filed at the behest of the writ petitioners/appellants. It is sought to be contended that there exists a prima facie case for passing an interim order not to give further effect to the notification/memorandum dated 23rd December 2019, as any steps taken thereupon would invite multiplicity of the proceedings.

In order to grant interim relief, the Court must be guided by three golden principles, namely, existence of a prima facie case, balance of convenience and inconvenience and irreparable loss and injury that the party would suffer in the event the injunction is not granted.

By the memorandum dated 23rd December 2019, the part time teachers, contractual whole time teachers and the guest teachers appointed in the different Government/Government aided colleges in the State of West Bengal were categorized and the remunerations were re-fixed on the basis thereof. It is contended by the appellants that the aforementioned teachers lacking the requisite educational qualification in terms of the University Grants Commission's norms cannot remain in the college nor their services can be approved on the basis of the said memorandum.

Our attention is drawn to the letter dated 24th December 1998 issued by the University Grants

Commission to all the Vice Chancellors of the University indicating that no person shall be appointed in the teaching post in the University unless it has a minimum requisite qualification and should also fulfill the other conditions of service, as may be imposed in the notification.

The instant appeal is pending since 2020 and nearly more than four years has elapsed and, therefore, we do not find that the balance of convenience and inconvenience or the irreparable loss and injury that would be caused to the appellants is manifestly evident. Mere existence of a prima facie case does not invite the Court to pass an interim order unless the Court record its satisfaction on the balance of convenience and inconvenience and the irreparable loss and injury to be suffered.

We would have delved to go deep in nitty-gritty and the effect of the impugned notification dated 23rd December 2019, but the same would cause prejudice to the parties as the writ petition is pending before the Single Bench and is expected to be decided on merit.

In course of hearing, it is contended by the contesting respondents that several other memorandums/notifications subsequent to 23rd December 2019 had been issued by the Government and, therefore, their effect and the applicability are also required to be taken into consideration.

Since the appeal is against the refusal to pass an ad interim order way back in the year 2020, we do not think that interference in the instant appeal is warranted as the interest of the parties would be sub-served if the writ petition itself is decided on merit. Since we are disposing of the appeal without deciding the applications seeking addition or party, liberty is granted to those applicants to approach the Writ Court with the identical prayer and if such approach is made, the Writ Court will decide the same on merit.

We expect that the writ petition shall be given a priority by the Single Bench and endeavour shall be shown to dispose of the same as expeditiously and possible.

On that basis, the appeal and the connected application are disposed of.

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

(Harish Tandon, J.)

(Prasenjit Biswas, J.)