

09.12.2025
Item Nos.10 &11
Court No.11
Avijit Mitra

MAT 1458 Of 2025
with
IA No.CAN 1 of 2025

Kanai Lal Barui
- Versus -
The State of West Bengal & ors.
with
MAT 1459 Of 2025
with
IA No.CAN 1 of 2025

Kanai Lal Barui
- Versus -
The State of West Bengal & ors.

Mr. Gautam Banerjee,
Mr. Suresh Kumar Sahoo
....for the appellant
(in both the appeals)

Mr. Supriyo Chattopadhyay, AGP
Ms. Iti Dutta

.....for the State
(in both the appeals)

Ms. Koyeli Bhattacharya
....for the WBBSE
(in both the appeals)

Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya,
Ms. Mithu Singha Mahapatra,
Mr. Ratul Ghosal,
Ms. Riyanka Diger,
Ms. Sampurna Chowdhury,
Mr. Anupam Singha

...for the private respondent no.9
in MAT 1458 of 2025

&

...for the private respondent no.7
in MAT 1459 of 2025

The present appeals have been preferred
challenging a judgment dated 8th August, 2025 passed
by the learned single Judge in two writ petitions being
WPA 5090 of 2009 (hereinafter referred to as the first

writ petition) and WPA 21217 of 2014 (hereinafter referred to as the second writ petition). The first writ petition was preferred by one Bhagirath Bauri (hereinafter referred to as Bhagirath) praying for issuance of necessary directions upon the District Inspector of Schools (S.E), Purulia (hereinafter referred to as the DI) to take steps for recasting the panel prepared for appointment to a group-D post at Sankhari Bansberia High School (hereinafter referred to as the said school) in which Kanai Lal Bouri (hereinafter referred to as Kanai Lal) was placed at the first position alleging, *inter alia*, that Kanai Lal had participated in the selection process producing a fake certificate. During the pendency of the first writ petition, an order of suspension dated 10th July, 2014 was issued against Kanai Lal. Challenging the same, Kanai Lal preferred a writ petition being WPA 21217 of 2014. Both the writ petitions were, thereafter, directed to be heard analogously and, accordingly, the same were taken up for final hearing and the judgment was delivered on 8th August, 2025. In the midst thereof, no order was, however, passed by the competent authority towards approval of suspension of Kanai Lal as the matter was sub judice.

Mr. Banerjee, learned advocate appearing for Kanai Lal submits that no notice of hearing of the writ petitions was served upon Kanai Lal and as such none

appeared on his behalf at the time of final hearing. On the said ground itself, the judgment dated 8th August, 2025, is liable to be interfered with inasmuch as there had been a blatant violation of the principles of natural justice.

He contends that the learned single Judge glossed over the fact that the authorities had not followed the procedure prescribed under the law towards issuance of an order of suspension and prior to issuance of the said order, no opportunity of hearing was granted to Kanai Lal.

He argues that by the impugned judgment, the learned single Judge had directed the West Bengal Board of Secondary Education (hereinafter referred to as the said Board) to initiate disciplinary proceedings against Kanai Lal and to conclude the same within a period of six months from the date of the judgment. It has also been directed that in the eventuality Kanai Lal's appointment is terminated, the DI shall issue appropriate order for appointment of Bhagirath within a period of three weeks from the date of receipt of a copy of the outcome of the disciplinary proceeding. By such direction, Kanai Lal's right to prefer statutory appeal against the order of termination, if any, passed against him, stands frustrated.

Mr. Panda, learned advocate appearing for Bhagirath denies and disputes the contention of Mr.

Banerjee and submits that no prejudice has been suffered by Kanai Lal since by the said judgment, the issue as regards genuinity of the certificate produced by Kanai Lal has not been finally decided and has been relegated to the appropriate authority to initiate a disciplinary proceedings.

He further denies that no proper notice was served upon Kanai Lal prior to hearing of both the writ petitions and submits that Kanai Lal did not even comply with the earlier directions towards exchange of affidavits and he cannot be allowed enjoy the fruits of a fake certificate uninterruptedly and indefinitely.

Ms. Bhattacharyya, learned advocate appearing for the Board informs us that pursuant to the judgment impugned and in accordance with law, the DI was asked to conduct a preliminary enquiry. Such preliminary enquiry was conducted and the report was communicated to the Board. Pursuant thereto, the Board had already issued a show cause notice on 21st November, 2025 to Kanai Lal but no reply has yet been furnished by him.

Ms. Dutta, learned advocate appearing for the State respondents submits that no allegation has been levelled against the State authorities.

In reply, Mr. Banerjee submits that the show cause notice was received by Kanai Lal on 27th November, 2025 and on 3rd December, 2025, he submitted a

representation seeking extension of time to file the reply.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

The issue as to whether the certificate produced by Kanai Lal at the time of participation in the selection process was genuine can only be determined by holding a regular disciplinary proceeding, as rightly observed by the learned single Judge and, accordingly, necessary directions have been issued for conducting the said proceeding within a time period as detailed in the judgment impugned.

The learned single Judge also directed that *‘in an eventuality, if so arises, when the authority decides to terminate employment of Kanai Lal, in accordance with the Rules and subject to the result of the disciplinary proceeding, the DI shall issue appropriate order for appointment of the candidate in the 2nd place, in the said panel, that is, Bhagirath’*. Though the provisions of the relevant rules provide for a statutory appeal, there is no mention in the impugned order that in the event Kanai Lal suffers an order of termination, he would be at liberty to avail the remedy of a statutory appeal.

In view thereof, the judgment is modified to the effect Kanai Lal would be at liberty to prefer a statutory appeal against the order of termination, if any, passed

by the disciplinary authority and that the appropriate order for appointment of Bhagirath, if any, passed by the DI shall abide by the result of the said statutory appeal, if any, preferred by Kanai Lal.

As Kanai Lal has submitted a representation for extension of time to file a reply to the show cause within a period of seven days, as specified, in the show cause notice, we direct Kanai Lal to submit such reply positively within a period of seven days from date and thereafter the Board shall initiate the disciplinary proceeding and conclude the same within the time stipulated by the learned single Judge.

With the above observations and directions, the appeals and the connected applications are, accordingly, disposed of.

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

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty, J.)