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09.09.2025
Ct. No. 11
rrc

MAT 1517 of 2025
with
IA No. CAN 1 of 2025
(Lakshmi Biswas Vs. The State of West Bengal & Ors.)

Mr. Subir Sanyal, Sr. Adv.
Mr. Chittapriya Ghosh
Mr. Somesh Ghosh

.... For the appellant

Mr. Sirsanya Bandopadhyay, Ld. Sr. Stang. Consl.
Mr. Biswabrata Basu Mallick, Ld. AGP
Mr. Sagnik Bhattacharya
Mr. Shibasish Banerjee

..... For the State

Ms. P. Bandopadhyay
Mr. A. K. Nag
Mr. R. K. Singh

..... For the W.B.C.S.S.C.

Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta

..... For the W.B.B.S.E.

The present appeals have been preferred challenging the judgment dated 4th September, 2025 passed by the learned single Judge upon analogous hearing of several writ petitions including the writ petition filed by the appellant herein, being WPA 20941 of 2025. The said writ petitions were preferred primarily challenging a memorandum no. 1652/ 7016/ CSSC/ ESTT/ 2025 dated 30th August, 2025 and praying for issuance of necessary direction upon the respondents to allow the appellants to participate in the written test scheduled on 14th September, 2025.

Drawing our attention to the contents of paragraph 363(iv) of the judgment dated 22nd April, 2024 delivered

by the Hon'ble Division Bench in MAT 1016 of 2025, Mr. Ghosh, learned advocate appearing for the appellant submits that the appellant herein was not appointed from outside the panel or after expiry of the panel nor had submitted blank OMR sheets and that as such she could not have been described as tainted candidate.

Drawing our attention to the judgment dated 3rd April, 2025 delivered by the Hon'ble Supreme Court in the case of *West Bengal Secondary Education Vs. Baishakhi Bhattacharyya (Chatterjee) and others*, Mr. Ghosh further submits that the appointments made to the Assistant Teachers for classes IX-X and XI-XII after the expiry of the panel were '*illegal and contrary to the Rules*'. A perusal of the list of candidates called for the 8th Phase of counselling would reveal that the candidates therein were appointed much after the expiry of the panel but they were not treated to be tainted candidates and had been issued admit cards to participate in the examination but the admit card issued to the appellant had been cancelled. The Commission had thus acted arbitrarily and had applied a different yardstick in respect of the appellant.

He contends that after delivery of the judgment in the case of *Baishakhi Bhattacharyya (Chatterjee) (supra)*, the Board filed a miscellaneous application in which an order was passed directing that the untainted candidates should be allowed to continue in their

respective posts observing *inter alia* that students undergoing study presently should not suffer on account of the lack of teachers. Surprisingly, the appellant who was admittedly appointed prior to expiry of the panel was not allowed to continue without any reason whatsoever. However, later the Commission did issue provisional admit card to the appellant for the examination scheduled on 14th September, 2025 but abruptly cancelled the same without any reason. Such arguments, as advanced, were glossed over by the learned single Judge and no finding was returned on the same. Such infirmity warrants interference of this Court.

Mr. Ghosh further submits that the issue as to whether persons similarly situated with the appellant would be allowed to participate in the selection process had been left open to be decided by the Hon'ble High Court. In view thereof, this Court has the jurisdiction to consider the said issue and grant appropriate opportunity to the appellant herein to participate in the selection process. In support of such contention he has placed reliance upon an order dated 25th August, 2025 passed by the Hon'ble Supreme Court in the case of *Sonali Das Vs. State of West Bengal & Others [SLP (Civil) No.16599 of 2025]*.

Mr. Nag, learned senior advocate appearing for the said Commission denies and disputes the contentions of

the appellant and submits that the name of the appellant features in the list of tainted candidates. On repeated occasions and in connection with several applications the Hon'ble Supreme Court had categorically directed that the tainted candidates cannot be allowed to participate in the examination. In support of such contention much reliance has been placed upon the observations made by the Hon'ble Supreme Court in the case of *Bibek Paria & Others Vs. The State of West Bengal & Others* [Special Leave Petition (Civil) Diary no.46049 of 2025]

He further submits that Special Leave to Appeal (C) No.23784/2025 and Special Leave Petition (Civil) Diary No.46049/2025 are pending for further consideration before the Hon'ble Supreme Court in connection with which the list dated 30th August, 2025 was published containing the names of tainted candidates and that as such the Court rightly refused to entertain the appellant's prayer.

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

Indisputably, the appellant is included in the list of tainted candidates. Even after issuance of the order passed on 17th April, 2025 in the miscellaneous application filed by the Board in the case of *Baishakhi Bhattacharyya (Chatterjee)* (*supra*), the appellant was

not allowed to continue with her services and at that juncture, she also did not approach the Hon'ble Supreme Court for appropriate orders. While hearing the matter of *Bibek Paria (supra)* the Hon'ble Supreme Court in the order dated 29th August, 2025 recorded that the statement of the learned senior counsel appearing for the Commission that none of the tainted candidates would be permitted to appear in the selection tests scheduled to be held on 07.09.2025 and 14.09.2025 and that if any tainted candidate slips through the net and manages to appear for the test(s), the notice dated 25.08.2025 issued by the Commission stating the eligibility/ineligibility of candidates would be examined in the post-examination stage in weeding out such tainted candidates, who are wholly ineligible in terms of the judgment delivered in the case of *Baishakhi Bhattacharyya (Chatterjee) (supra)*. In view of such observations made by the Hon'ble Supreme Court and as the said matter is still pending before the Hon'ble Supreme Court, the learned single Judge refused to exercise discretion in favour of the appellant and we do not find any infirmity in the impugned judgment.

The order in *Sonali Das (supra)* was passed by the Hon'ble Supreme Court on 25th August, 2025 and subsequent thereto, the Commission had submitted a list of tainted candidates in the case of *Baishakhi*

Bhattacharyya (Chatterjee) (supra) and the Hon'ble Supreme Court is in seisin of the same.

In view thereof, the appeal and the connected application are dismissed.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)