

19.09.2025
Item
Nos.05 & 06
Court No.11
Avijit Mitra

MAT 1623 of 2025
with
IA No.CAN 1 of 2025
Kajari Banerjee & ors
- Versus -
Dr. Srabanti Bhattacharya & ors.
with
MAT 1624 of 2025
with
IA No.CAN 1 of 2025
Kajari Banerjee & ors
- Versus -
Dr. Srabanti Bhattacharya & ors.

Mr. Soumya Majumdar, Sr. Adv.,
Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya,
Ms. Mithu Singha Mahapatra
.... for the Appellants
[in MAT 1623 of 2025].

Mr. Biswaroop Bhattacharya,
Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya,
Ms. Mithu Singha Mahapatra,
Ms. Horitri Roy,
Mr. Ratul Goswami
.... for the Appellants
[in MAT 1624 of 2025].

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.,
Mr. Subir Sanyal, Sr. Adv.,
Mr. Amiya Kumar Dutta,
Mr. Sabyasachi Chatterjee,
Mr. Swadesh Priya Ghosh,
Mr. Surajit Mukherjee,
Mr. Saumen Datta
... for the Writ petitioner/Respondent no.1
[in both the appeals].

Mr. Kishore Datta, Ld. A.G.,
Mr. Swapan Banerjee, AGP,
Ms. Sumita Shaw,
Mr. Soumen Chatterjee
... for the State/Respondents
[in both the appeals].
Mr. Nilotpall Chatterjee,

Mr. Sourabh Sengupta
 ... for the Calcutta University
 [in both the appeals].

Mr. Sumitava Chakraborty,
 Ms. Sampurna Chowdhury
 ... for the Respondent nos. 14 & 15
 [in both the appeals].

Mr. Debashis Saha,
 Mr. S. Ghosh,
 Mr. S. Pal
 ... for the Respondent nos. 11 & 12
 [in MAT 1623 of 2025].

The above appeals have been preferred challenging an order dated 16th September, 2025 passed by the learned single Judge in two writ petitions being WPA 15396 of 2025 and WPA 20940 of 2025. The first writ petition was preferred by the respondent no.1 herein challenging, *inter alia*, a memo dated 9th June, 2025 issued by the Deputy Secretary, Government of West Bengal, Department of Higher Education, a memo dated 1st July, 2025 and a show cause notice dated 3rd July, 2025. Both the memoranda dated 1st July, 2025 and 3rd July, 2025 were issued by the appellant no.1. The second writ petition was preferred challenging, *inter alia*, the order of suspension dated 29th August, 2025, issued by the appellant no.1.

Mr. Majumder, learned senior advocate, assisted by Mr. Biswaroop Bhattacharya, learned advocate, appearing for the appellants in both the appeals submits that the learned Judge erred in law in proceeding on the basis that there is no Governing Body (hereinafter referred to as the said GB) in the Rani Birla Girls' College (hereinafter

referred to as the said College) and that the impugned show cause notice dated 3rd July, 2025 and the order of suspension dated 29th August, 2025 suffer from jurisdictional error.

He argues that the learned Judge ought not to have interfered with the show cause notice and the suspension order moreso when the same would not reveal any finding of guilt against the respondent no.1. The concerned authority, in the interest of the College had every jurisdiction to suspend the respondent no.1 for proper administration of the said College and since her presence would affect the academic atmosphere of the College. Such steps, as taken, are neither arbitrary nor *malafide* warranting interference of the Court.

Drawing our attention to the provisions of the Calcutta University Statutes (hereinafter referred to as the said Statutes) and the West Bengal Universities and Colleges (Administration and Regulation) Act, 2017 (hereinafter referred to as the Act, 2017), Mr. Majumder contends that the President, the State Government nominees of the and the nominee of the West Bengal State Council of Higher Secondary have already been placed in the GB and the number of members in the GB constitutes the quorum. In the said conspectus, the learned Judge erred in law in exercising discretion in favour of the appellant no.1 on the rudiments of a sole observation that '*it is primarily seen that the reconstitution of GB is yet to take place*'.

Mr. Majumder contends that the phrase '*proposed as*' appearing in the memo dated 9th June, 2025 had been construed to be a temporary placement of the nominees though the provisions of Section 5 of the Act, 2017 clearly reveal that such proposals towards placement of nominees are final. The said memo has been issued cancelling the earlier memo dated 16th March, 2024 by which an Administrator was appointed in the said College and in view thereof, the administration of the said College cannot be left at the hands of the appellant no.1.

Drawing our attention to several provisions of the said Statutes and the Act, of 2017, Mr. Datta, learned Advocate General appearing for the State respondents argues in view of the fact that nomination had been exercised by the appropriate authority and as quorum exists for administration of the College, the learned Judge erred in observing that the GB is yet to be constituted moreso when there is no requirement under the Act of 2017 towards any specific declaration as regards existence of any GB. Such argument, as advanced, was glossed over by the learned Judge and no finding was returned on the same. Such infirmity warrants interference of this Court.

He further argues that the provision of the Section 5 of the Act, 2017 stands substantially fulfilled and there is no rider that though the existing members constitute a quorum, the GB cannot exist for the absence of any other

member. Any alleged ambiguity in the statute needs to be left to the competent legislature.

Mr. Bhattacharya, learned senior advocate assisted by Mr. Sanyal, learned senior advocate appearing for the writ petitioner/respondent no.1 submits that the first writ petition challenging the show cause notice was extensively heard by a learned single Judge but ultimately by an order dated 19th August, 2025 the matter was released from the list. The reason for which the matter was released would be explicit from the said order itself. Immediately thereafter on 29th August, 2025, a resolution was adopted by the nominees to suspend the writ petitioner/respondent no.1 on and from the said date and to that effect a suspension order was also issued on the self-same date. Such sequence of facts would reveal a tearing hurry on the part of the nominees to suspend the writ petitioner and that too in the absence of a reconstituted GB.

Drawing our attention to the definition of Governing Body in Section 3(xii) and Section 5, Mr. Bhattacharya submits that there has to be a GB consisting of the members, as stipulated in Section 5 and that the President of such a GB shall have to be a person interested in education and shall be nominated by the State Government from amongst members of the GB or from outside. The President, being the appellant no.1, happens to be a councillor of the KMC and is not a person

interested in education. The phrase '*proposed as*' was used in the memo dated 9th June, 2025 since such nominees can be finally placed in an existing GB.

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

It is well-settled that a Court of Appeal should not ordinarily interfere with the discretion as exercised by the learned writ Court. From the records and the arguments, as advanced, it clearly appears that there is a dispute as regards existence and constitution of a GB in the said College. There is thus no infirmity in the *prima facie* finding of the learned Judge that '*the reconstitution of the GB is yet to take place*'. In the absence of a GB, the nominee members, on their own, could not have issued the impugned show cause and the order of suspension moreso when the election of teaching staff in the GB is still awaited.

In view thereof, the learned Judge had rightly passed the *interim* order and we do not find any infirmity in the same.

Accordingly, both the appeals and the connected applications are dismissed.

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

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

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