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12.09.2025
Court No. 12
Sayan

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

**MAT 1988 of 2024
With
CAN 1 of 2025**

**Amit Kumar Das
Vs.
The State of West Bengal & Ors.**

Mr. Ujjal Ray
Mr. Atreya Chakraborty
... for the Appellant.

Mr. Nilotpall Chatterjee,
Mr. Amritlal Chatterjee

... for the Respondent No. 2

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
...for the WBCSSC

1. An order of the Hon'ble Single Judge in Writ Petition No. WPA 12609 of 2023 dated August 29, 2024 is assailed in this appeal.
2. The appellant/writ petitioner is aggrieved that his predominant rights as *dominus litis* has been substantially curtailed, unjustifiably and illegally by the Hon'ble Single Bench, by not allowing him to proceed in his writ petition on the purported ground that the writ petition was beyond scope of liberty granted by the contempt Court for filing a fresh writ petition.
3. Mr. Ujjal Ray, learned Advocate for the appellant/writ petitioner has submitted that after order of this Court passed earlier, and after reassessment of his answer script/OMR sheet,

pursuant to the said order of the Court, his total marks increased. But that was not such as to confer eligibility to the writ petitioner for being appointed in the post. It is submitted that the appellant/writ petitioner was not informed about the exact changes in his answer script resulted after the reassessment was done pursuant to the Court's order.

4. It has further been submitted that a contempt application was filed by the writ petitioner/appellant being No. CPAN 1321 of 2022, in connection with the said earlier writ petition. In the contempt, the Court has held that any individual cause of action as regards clarification of the personality test, alleged non-receipts/service of notice of personality test and disclosure of marks, may be agitated in a separate, independent, fresh writ petition. Hence, the appellant submits that, a subsequent writ petition being No. WPA 12609 of 2023 was filed by him before the Hon'ble Single Judge.
5. Mr. Ujjal Ray, learned Advocate, has submitted that the said writ petition only envisages independent cause of action and no way connected with the earlier writ petition. He has submitted further that an order of the contempt Court may not restrain the writ petitioner or restrict his rights in any way, to knock the doors of the Court seeking redress of his grievances. The order of the contempt Court dated May 8, 2023 in CPAN No. 1321 of 2022 has been described as illustrative and not an exhaustive one. It is submitted to be required to be read not

in a strict sense. Mr. Ray, learned Advocate, has submitted that since the Court has not entered into the merits of the writ petition and dismissed the same on the very outset for some reasons which are not tenable as per the legal parlance, the instant appeal may be allowed by this Court by remanding back the writ petition for hearing by the Hon'ble Single Judge.

6. Dr. Sutanu Kumar Patra, learned Advocate has represented the respondent, West Bengal Central School Service Commission. According to him the cause of action espoused by the writ petitioner/appellant in the writ petition No. WPA 12609 of 2023 was never in exclusion of those espoused by him earlier in the other writ petition No. WPA 8189 of 2013. Dr. Patra, learned Advocate has submitted that the instant case has a checkered history and in terms of Court's direction passed from time to time, the answer scripts of the writ petitioner/appellant have been re-evaluated and marks have been re-allocated. With reference to the impugned order Dr. Patra, learned Advocate has submitted that the Hon'ble Single Judge being enough conscious with the fact that the prayer made by the writ petitioner/appellant in the said writ petition have already been dealt with by the Court earlier and necessary follow up steps having already been taken by the respondent pursuant to the said order of the Court, there would not be any necessity or justification any further to maintain a writ petition with the self-same cause of action. He says that the Court hence has held the writ petition to be untenable and there would not be any infirmity as to the

said order of the Court. Dr. Sutanu Kumar Patra, learned Advocate appearing for the respondent/West Bengal Central School Service Commission therefore insists that the instant appeal be dismissed.

7. We have heard the submissions of both the learned counsels for the respective parties and perused the records.
8. An error has definitely kept in the impugned order passed by the Hon'ble Single Judge dated August 29, 2024 in WPA No. 12609 of 2023 that the said writ petition is an off-shoot of the earlier writ petitioner No. WPA 8189 of 2013 and the connected contempt proceeding that is, CPAN 1321 of 2022.
9. In the order dated August 18, 2022 in WPA No. 8189 of 2013, the Court directs for reassessment of the OMR sheets/answer scripts of the writ petitioner/appellant; that if the answer key to the questions in the OMR sheets are found incorrect or more than one answer are found to be correct then the respondent/ West Bengal Central School Service Commission should have to award marks to the concerned candidates for each of those questions. The Court directs further that consequential benefits shall also follow to the candidates who are found to have been obtained additional marks pursuant to such process.
10. There is no dispute as regards the fact that reassessment of OMR sheets have been done by the respondent/ West Bengal Central School

Service Commission in terms of the Court's order as above. Therefore, in the contempt proceeding in connection with the said writ petition No. WPA 8189 of 2013 being CPAN No. 1321 of 2022 the Court records that the contempt application needs not be kept pending any further. However, the Court further directs that any individual cause of action as regards non-clarification of the personality test, alleged non-receipt/service of notice of personality test and disclosure of marks may be agitated in a separate, independent, fresh writ petition. Nevertheless, irrespective of liberty granted, a bona fide petitioner would always be entitled to agitate for his legal rights to be established, before a Court of law.

- 11.** In that view of the matter, the order of the contempt Court dated May 8, 2013 in CPAN No. 1321 of 2022 in connection with writ petition No. WPA 8189 of 2013 appears to be an illustrative one rather than an exhaustive one. As a matter of fact, this Court finds the Hon'ble Single Judge to be enough conscious to record in his order that any individual cause of action is qualified for adjudication before a Court of law in an independent writ proceeding.
- 12.** It cannot be said that the appellant writ petitioner's rights to agitate as against alleged violation of his legal or statutory rights before a Court of law would be subject to a Court's order. It is also not sustainable in law that a litigant be restrained with specific pointers to agitate before the Court and not any other grievance. Rather this appeal Court is of considered opinion that

an independent writ petition may be filed by a petitioner for redress of his grievance. Whether the grievance of the appellant writ petitioner have already been mitigated by way of actions taken by the respondent in terms of Court's order is a question on merit of the writ petition which the Hon'ble Single Judge should have to consider, while considering the writ petition on merit.

13. The Court's directions regarding the specific points on which a subsequent writ petition should be filed are generally not binding or mandatory in a strict legal sense; instead those are procedural recommendations or expressions of judicial opinion. It is not binding in effect unless explicitly made mandatory. Courts may issue directions to guide the parties or facilitate judicial efficiency, but this cannot be considered necessarily to have binding or mandatory effect. With reference to a judgment of the Supreme Court in ***U.P. Sales Tax Service Association Vs. Taxation Bar Association, Agra*** reported in ***(1995) 5 SCC 716***, it can be mentioned that the Court's role of supervising the process and ensuring proper considerations has been upheld in the same, not to dictate the precise form or content of future proceedings, in absence of explicit language to that effect. Generally, they serve as a procedural guidance or recommendation.
14. In the order passed by the Hon'ble Single Judge dated August 29, 2024, it is found that the Court rests its decision not to entertain the writ petition on the grounds that the contempt Court

in its order dated May 8, 2023 has specified the grounds for which a fresh writ petition can be filed by the appellant/writ petitioner, that is, firstly relating to failure to qualify the personality test or non-consideration of the candidature of the individual candidates due to alleged non-receipt/service of notice of personality test and finally non-disclosure of marks. The Court further finds that since the instant writ petition might have agitated some other grievance which would not fall within the three categories as mentioned by the contempt Court in its order dated May 8, 2023 the Hon'ble Single Bench finds that the writ petition would not be maintainable. Considering the illustrative nature of the order of the Hon'ble contempt Court and the rights of the appellant/writ petitioner as a bona fide litigant before the Court of law, the above reasons and finding of the Hon'ble Single Judge vide order dated August 29, 2024 does not appear to be sustainable in the eye of law. Hence, the same is liable to be set aside.

- 15.** For the reasons as above, the impugned order of the Hon'ble Single Judge dated August 29, 2024 in writ petition No. WPA 12609 of 2023 is set aside.
- 16.** Let the writ petition No. WPA 12609 of 2023 be remanded back before the Hon'ble Single Judge for adjudication and decision on merits.
- 17.** With the directions as above, the instant appeal being No. MAT 1988 of 2024 is disposed of.

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

(Lanusungkum Jamir, J.)

(Rai Chattopadhyay, J.)