

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

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**FMA/1286/2025
SANJOY KUMAR MALIK
VS
THE STATE OF WEST BENGAL & ORS
IA NO: CAN/1/2020(Old No:CAN/578/2020)
CAN 2 of 2025**

For the Appellant : *Mr. Bikash Ranjan Bhattacharjee, Sr. Adv.
Mr. Uday Sankar Chatterjee, Advocate
Mr. Suman Sankar Chatterjee, Advocate
Mr. Pronoy Basak, Advocate
Ms. Trisha Rakshit, Advocate
Mr. A. Dutta, Advocate
Mr. Rajarshee Taha, Advocate*

For the State : *Mr. Supriyo Chattopadhyay, AGP
Ms. Iti Dutta, Advocate*

Heard & Judgment on: August 14, 2025

Debangsu Basak, J.

1. Appeal is of the writ petitioner of WP 25743 (W) of 2007.
2. Learned Senior advocate appearing for the appellant submits that, appellant, participated in a selection process undertaken by the authorities on the basis of sponsorship of candidate from the Employment Exchange. Appellant approached the writ Court by

way of WP No. 25743 (W) 2007 with a request to participate in the selection process without being sponsored by the Employment Exchange. An interim order was granted permitting the appellant to participate in the selection process. Appellant participated in the selection process and stood first therein. Consequently, appellant was granted the employment.

3. Learned senior advocate appearing for the appellant submits that, the writ petitioner in WP 20632 (W) of 2017 filed a subsequent writ petition (for the sake of convenience referred to as the private respondent). Such private respondent filed an application for being added as party respondent in the writ petition of the appellant being WP No. 25743 (W) 2007 without notice to the appellant. Such application for addition of party was allowed, again, in absence of the appellant. Thereafter, such private respondent ensured that the writ petition of the appellant stood dismissed for default.
4. Appellant becoming aware of such situation, approached the writ Court and got the writ petition restored. Both the writ petition of the appellant as also that of the private respondent were heard and decided by the impugned judgment and order.
5. Learned senior advocate appearing for the appellant submits that, a Full Bench of this Court reported at **(2005) 3 CHN 337 [Rabindra Nath Mahata vs. State of West Bengal & Ors.]** was not cited before the learned Single Judge. He submits that, **Rabindra Nath Mahata (supra)** lays down that, a person can be allowed to participate in the selection process who is not sponsored by the Employment Exchange. In this regard, he refers to paragraphs 44 and 46 thereof.

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6. The right of a candidate to be considered in the selection process without being sponsored by the Employment Exchange was recognised in **Rabindra Nath Mahata (supra)**.
7. In the facts of the present case, appellant participated in the selection process by virtue of an interim order passed by the writ Court. Appellant stood first in the selection process and was granted the employment.
8. Interim order passed in the writ petition was not assailed by any of the authorities. Therefore, the parties cannot be allowed to act in violation of the subsisting interim order on the date of recruitment.
9. The private respondent is no longer interested in contesting the instant proceeding. His writ petition stood dismissed due to lack of explanation on account of delay in approaching the writ Court by the impugned judgment and order. The appeal carried by such private respondent being MAT 75 of 2020 was dismissed as not pressed at the instance of the private respondent on July 14, 2025.
10. In the facts and circumstances of the present case, there is no other claimant contesting the appointment of the appellant to the post at which he is working.
11. In such circumstances, we set aside the impugned judgment and order.
12. FMA/1286/2025 along with connected applications are **disposed of** accordingly.

(Debangsu Basak, J.)

13. I agree

(Md. Shabbar Rashidi, J.)