

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/59/2025
SUDIPTA SEAL
VS
DEBASHIS DAS AND ORS

WITH

APO/113/2024
IA NO: GA/1/2024
REGISTRAR GENERAL HIGH COURT CALCUTTA AND ORS
VS
DEBASHIS DAS AND ANR

BEFORE:
THE HON'BLE JUSTICE MADHURESH PRASAD
AND
THE HON'BLE JUSTICE SUPRATIM BHATTACHARYA
Date: 25th August, 2025.

APPEARANCE:

Mr. Jaydip Kar, Sr. Adv.
Mr. Saikat Banerjee, Adv.
Mr. Shirsho Banerjee, Adv.
...for the appellants in APO/113/2024.
...for High Court Administration in APO/59/2025.

Mr. Soumavo Mukherjee, Adv.
Mr. Indranil Munshi, Adv.
...for the appellant in APO/59/2025
...for the respondent in APO/113/2024.

Mr. Anjan Bhattacharya, Adv.
Ms. Anita Shaw, Adv.
...for respondent no. 1/petitioner.

The Court : The writ petitioner before the Writ Court assailed the result of the respondent no. 4 as well as the action of the respondents (Registrar General, High Court, Calcutta) in allowing the participation of respondent no. 4 in the recruitment process and declaring him successful therein.

The challenge was thrown on the ground that respondent no. 4 is an OBC-B candidate. The advertisement pursuant to which the recruitment was conducted does not notify any vacancy for OBC-B category candidate. Therefore, participation and selection of respondent no. 4 in the recruitment process as an OBC-B category candidate is unsustainable. The Writ Court found an arguable case made out and passed an interim order dated 26.09.2024, relevant extract of which reads:

“The report in the form of an affidavit is directed to be filed instead of an affidavit-in-opposition taking into consideration the urgency in the matter and the limited factual scope.

Let the report in the form of an affidavit be filed by the respondents no. 1, 2 and 3 by 12th November, 2024. Exception to the report, if any, thereto be filed by 22nd November, 2024.

The respondent no. 4 shall, however, file affidavit-in-opposition by 12th November, 2024. Reply, if any by the petitioner to such opposition be filed by 22nd November, 2024.

Let this matter appear in the list on 26th November, 2024 under the heading “For Orders”.

It is clarified that notwithstanding the pendency of the writ petition the respondents will be entitled to give appointments to all the selected candidates except filling up the vacancy under OBC-B (EC) category.

Since the appointment letter has been issued to the present respondent no. 4 being the selected candidate in respect of vacancy of OBC-B (EC) category who belongs to OBC-B category and that the said respondent no. 4 has not jointed as yet, the said respondent no. 4 shall not be permitted to join without express leave of this Court.”

The respondent-appellant have assailed the interim order by way of the present appeal, and therefore, it is submitted that a default has occurred in filing of the report in the form of affidavit/affidavit-in-opposition in the Writ Court.

The learned Senior Advocate representing the High Court submits that the report/affidavit-in-opposition shall be filed in the writ proceedings by the appellant before the Hon'ble Single Judge within two weeks from date. It is further submitted that the interim order be modified to the limited extent that the respondent no.4 be permitted to join pursuant to the appointment letter issued in his favour, however, subject to result of the writ petition.

The learned Advocate representing the writ petitioner-respondent submits that no vacancy was advertised for OBC-B category. The respondent no. 4 was thus not entitled to participate in the recruitment process as an OBC-B category candidate. He denies and disputes the stand of the High Court that as per rules governing the recruitment process, the post advertised for OBC-B (EC) category is interchangeable with OBC-B category, in the event of unavailability of OBC-B (EC) category candidate. This is the crux of the issue pending consideration before the Hon'ble Single Judge.

The learned Senior Advocate appearing for the appellants submits that during pendency of the writ proceedings the appellants be allowed to utilize the services of the respondent No. 4, since he has emerged successful in the recruitment process. He submits that there is a pressing requirement for Assistant Registrar (Court Recording) for smooth functioning of the Court proceedings. This Court, therefore may modify the interim order dated 26.09.2024 passed by the Writ Court accordingly.

In view of the nature of the controversy pending adjudication before the Writ Court and since the respondent No. 4 has emerged successful in the recruitment process such modification in our opinion would not in any

way/manner prejudice the case of the Writ Petitioner, or affect the merits of the matter pending before the Writ Court. We, therefore, modify the order passed by the Hon'ble Single Judge so as to allow the appellants to process the appointment of respondent No. 4 with the view to utilization of his services, but with clear indication that the appointment will be subject to result of the Writ Petition. Respondent No. 4, who is also a party to the present proceedings and represented through learned Advocate shall not claim accrual of any right whatsoever by virtue of interim order as modified by this Court today. Appointment of respondent No. 4 would be subject to result of the Writ Petition. We, make it clear that all issues are left open to be considered in the writ proceedings in accordance with law.

The appeals stand disposed of.

(MADHURESH PRASAD, J.)

(SUPRATIM BHATTACHARYA, J.)