

31.03.2026
Item No.15
Court. No. 11
Avijit Mitra

**FMA 45 of 2026
with
IA No.CAN 1 of 2026**

**Purbita Ray
- Versus -
The State of West Bengal & ors.**

Ms. Kakali Samajpaty,
Mr. Subir Hazra,
Ms. Sangita Jangra,
Ms. Payel Neogi,
Ms. Sabina Khatun
....for the appellant
Mr. Swapan Kumar Datta, Ld. G.P.,
Mr. Tapas Kr. Roy
....for the State
Ms. Koyeli Bhattacharyya,
Mr. Bibek Dutta
....for the WBBSE
Mr. Kalyan Bandyopadhyay, Sr. Adv.,
Mr. Biswaroop Bhattacharyya,
Mr. Kanak Kiran Bandyopadhyay,
Ms. Pramiti Bandyopadhyay,
Mr. Arka Kumar Nag,
Mr. Rahul Kumar Singh
...for the WBCSSC

The present appeal has been preferred challenging an order dated 25.11.2025 passed by the learned single Judge in a writ petition being WPA No.9253 of 2025 which was preferred primarily praying for issuance of necessary direction upon the respondents to remove the name of the writ petitioner/appellant herein from the tainted list published pursuant to an order passed in a writ petition being WPA 13700 of 2021 in connection with the 1st State Level Selection Test for the post of Assistant

Teachers (except Hill Region), for classes IX-X, 2016 conducted by the West Bengal Central School Service Commission (hereinafter referred to as the said Commission). In the said writ petition, the Court thereafter passed an order on 16.12.2022 directing the Chairman of the said Commission to verify and take a decision upon granting an opportunity of hearing to the applicants including the appellant herein whose names featured in the list of 183 wrongly recommended candidates. Pursuant to such direction, the Chairman of the Commission issued a memo dated 19.12.2022 observing *inter alia*, that *‘the petitioner got equal marks as compared to candidate at rank number 322-327, she was placed below them because of lower age. None of the above candidates holding rank from 323 to 327 was recommended’*.

Drawing the attention of this Court to paragraph 363 (iv) of the judgment dated 22.04.2024 delivered in in the case of *Baishakhi Bhattacharyya (Chatterjee) Vs. State of West Bengal & ors*, Ms. Samajpaty, learned advocate appearing for the appellant submits that the appellant was not appointed from outside the panel or after expiry of the panel nor did she submit blank OMR sheet and as such she could not have been described as a tainted candidate. The term tainted candidate implies ineligibility. Though the appellant possessed the requisite

eligibility criteria for appointment, she was victimized by the Commission.

She further submits that the observations made in paragraph 363 (iv) of the judgment dated 22.04.2024 were not interfered with by the Hon'ble Supreme Court in its judgment dated 03.04.2025 and therefore identification of tainted candidates needs to be based on only three categories as delineated in paragraph 363 (iv) and an instance of alleged rank jumping cannot be brought within the purview of the said categories. Such argument, as urged, was glossed over by the learned single Judge and no finding was returned on the same and the writ petition was abruptly rejected by a cryptic order.

She further argues that suspicion, however, strong cannot take the place of proof and the conclusion of guilt against a delinquent has to be fully established without leaving any reasonable doubt as there is always a danger that conjecture or surmise may take the place of legal proof. In support of such argument reliance has been placed upon the judgments delivered in the cases of *Jaharlal Das Vs. State of Orissa* reported in (1991) 3 SCC 27, *State of Odisha Vs. Banabihari Mohapatra & anr.*, reported in (2021) 15 SCC 268 and *Padman Bibhar Vs. State of Odisha*, reported in 2025 SCC OnLine SC 1190.

Mr. Bhattacharya, learned advocate appearing for the Commission denies and disputes the contention of Ms.

Samajpaty and submits that the name of the appellant featured in the list of tainted candidates. On repeated occasion 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. Reliance has been placed upon the judgment delivered by the Hon'ble Supreme Court in the case of *Bibek Paria & Ors. vs. The State of West Bengal & Ors.*, wherein it has been observed *inter alia* that the '*High Court shall, however, ensure that none of the tainted candidates are permitted to slip through in the fresh selections, be it on any pretext*'.

He argues that the contents of paragraphs 23 and 41 of the judgment dated 03.04.2025 delivered by the Hon'ble Supreme Court in appeal against the judgment delivered in *Baishakhi Bhattacharyya (Chatterjee) (supra)* would clearly reveal that rank jumping was described to be a significant discrepancy and as such the contention of the appellant that she cannot be described as a tainted candidate, is not acceptable.

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

From the memo dated 19.12.2022 it would be explicit that the appellant's rank was WMF2-328 in SC M/F waitlist and though she got equal marks as compared to candidates at rank number nos. 322-327, she was placed

below them because of lower age. None of the above candidates holding rank from 323 to 327 was recommended, however, the appellant was recommended and that as such it is a clear case of rank-jumping. The said memo dated 19.12.2022 issued by the Chairman of the Commission has not been challenged by the appellant.

It is well known that a decision is an authority for what it decides and not what can logically be deduced therefrom. Even a slight distinction in fact or an additional fact may make a lot of difference in decision making process. The judgment is a precedent for the issue of law that is raised and decided and not the observations made in the facts of any particular case. There is no dispute as regards the proposition of law laid down in the judgments cited on behalf of the appellant but they are distinguishable on facts.

In consideration of the gamut of illegalities and irregularities, the Hon'ble Supreme Court had observed *inter alia* in the judgment dated 03.04.2025 that the issues highlighted clearly point to large scale manipulation and tampering with results, including rank jumping. It thus cannot be contended that a candidate who obtained recommendation upon rank jumping cannot be treated to be a tainted candidate. The appellant was added as party in the proceeding decided finally by the Hon'ble Division Bench of this Court, as

would be explicit from the contents of paragraph 107 of the judgment delivered in the case of *Baishakhi Bhattacharyya (Chatterjee)*. The said judgment was affirmed in the appeal by the Hon'ble Supreme Court and as such the appellant is bound by the rigors of the said judgments and she cannot reinvigorate her claim which has been permanently shut out.

For the reasons discussed above, no interference is called for in the present appeal.

Accordingly, the appeal and the connected application 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.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)