

**19.06.2026**  
rpan/01

**MAT 21 of 2026**

+

IA No.: CAN 1 of 2026 [Sec. 5]

+

IA No.: CAN 2 of 2026 [stay]

**Utsab Mukhar Sarkar**

- *Versus* -

**Punchra Bhagaban Mahabir Digambar  
Jain Sarak High School & Others**

Mr. Samiran Mandal,  
Mr. Mrinal Kanti Sarder,  
Mr. Nitish Samanta,  
Ms. Shreyashee Mitra  
... for the Appellant.

Mr. Anjan Bhattacharya,  
Ms. Anita Shaw,  
Ms. Seema Thakur  
... for the Writ Petitioners/  
Respondent Nos.1 & 2.

Ms. Manju Agarwal,  
Ms. Puja Sarkar  
...for the State/Respondents.

Ms. Koyeli Bhattacharyya,  
Mr. Bibek Dutta  
... for the WBBSE.

The present appeal has been preferred challenging an order dated 4<sup>th</sup> November, 2025, passed by the learned single Judge in a writ petition, being WPA 23298 of 2025. In connection with the appeal, an application for condonation of delay and an

application for stay have been preferred. Upon hearing the learned advocates appearing for the respective parties and considering the materials on record, we are satisfied with the explanation given towards the delay in filing the present appeal. Accordingly, such delay is condoned and the application, being IA No.: CAN 1 of 2026 is disposed of.

Records would reveal that a writ petition was preferred by the school, namely, Punchra Bhagaban Mahabir Digambar Jain Sarak High School (hereinafter referred to as the school) and its functionary, being the Headmaster challenging *inter alia* an order dated 21<sup>st</sup> August, 2025 passed by the President, *Ad hoc* Committee, West Bengal Board of Secondary Education, being the respondent no.7. The respondent no.6/the appellant herein, namely, Utsab Mukhar Sarkar (in short, Utsab) was working as an Assistant Teacher of the school since 13<sup>th</sup> January, 2004. He suddenly fell ill and was hospitalized on 30<sup>th</sup> June, 2009 and after recovery he joined on 5<sup>th</sup> October, 2009. Subsequent thereto, he again fell ill and upon recovery when he went to join, the school authorities did not allow him to join. Aggrieved thereby, Utsab preferred a writ petition, being W.P. 17768 (W) of 2012 which was disposed of

by an order dated 13<sup>th</sup> December, 2012 directing Utsab to go to the school on or before 21<sup>st</sup> December, 2012 and to submit his fitness certificate and the school authorities were directed to allow him to join subject to the regularization of the leave by the appropriate authority. As the said order was not complied with, Utsab preferred a contempt petition and pursuant to the orders passed in the same, Utsab was ultimately allowed to join on 2<sup>nd</sup> June, 2014.

Records would further reveal that a prior period of absence of Utsab from 21<sup>st</sup> October, 2009 to 20<sup>th</sup> October, 2011 was approved as '*leave without pay*' and the period absence of from 21<sup>st</sup> October, 2011 to 1<sup>st</sup> June, 2014 was approved as '*leave without pay*' by the Board issuing a memo dated 08<sup>th</sup> March, 2018. Subsequent thereto, some representations were submitted by Utsab. Responding to the same, the respondent no.7 passed an order on 21<sup>st</sup> August, 2025 rescinding the earlier order dated 08<sup>th</sup> March, 2018 and directing *inter alia* that the period of absence from 21<sup>st</sup> October, 2011 to 1<sup>st</sup> June, 2014 should be treated as a period '*Spent on Duty*' and therefore would be '*Leave with Pay*'. Aggrieved by the said order, the school authorities preferred the writ

petition in which the order impugned has been passed.

Mr. Mandal, learned advocate appearing for Utsab strenuously argues that during the period from 21<sup>st</sup> October, 2011 to 1<sup>st</sup> June, 2014 Utsab was prevented from joining the school and for such act on the part of the school authorities, Utsab cannot be deprived of his full pay for the said period. Such issue, as urged, was glossed over by the learned single Judge and no finding was returned on the same.

Drawing our attention to a letter dated 18<sup>th</sup> December, 2025 issued by the appellant no.2, Mr. Mandal contends that a part of the order impugned in the writ petition had, in fact, been complied with by the school authorities since Utsab was allowed to join since 13<sup>th</sup> September, 2025 on the basis of the fitness report dated 1<sup>st</sup> September, 2025 issued by the Chief Medical Officer of Health. Upon such compliance, the school authorities could not have challenged the order dated 21<sup>st</sup> August, 2025.

Mr. Bhattacharya, learned advocate appearing for the school authorities submits in the backdrop of the fact that Utsab accepted the regularization of the period from 21<sup>st</sup> October, 2011 to 1<sup>st</sup> June, 2014 as '*Leave without Pay*', the self-same order dated 08<sup>th</sup>

March, 2018 could not have been subsequently revisited by the respondent no.7 and the said period of absence could not have been directed to be treated as a period '*Spent on Duty*' on the basis of a representation submitted by Utsab. In view thereof, the said order dated 21<sup>st</sup> August, 2025 has been rightly interfered with and there is no infirmity in the order impugned in the present appeal.

Ms. Agarwal and Ms. Bhattacharyya, learned advocates enter appearance on behalf of the State/respondents and the Board respectively.

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

Indisputably, on the direction passed in the earlier writ petition and contempt petition, Utsab was allowed to join the school from 2<sup>nd</sup> June, 2014. In the said orders there was no direction to grant full pay to Utsab for the period from 21<sup>st</sup> October, 2011 to 1<sup>st</sup> June, 2014. The Board thereafter regularised the said period of absence by granting '*leave without pay*' *vide* order dated 8<sup>th</sup> March, 2018. Having accepted the said order, Utsab could not have reinvigorated the claim towards payment of actual salary for the said period. The letter dated 18<sup>th</sup> December, 2025 issued by the appellant no.2 is

pertaining to a period of absence subsequent to 1<sup>st</sup> June, 2014. The order impugned in the writ petition does not reveal any reason towards revisitation of the earlier order and a direction to pay actual salaries to Utsab for the period from 21<sup>st</sup> October, 2011 to 1<sup>st</sup> June, 2014. In view thereof, the learned single Judge rightly interfered with the said order of the Board and dismissed the writ petition.

We do not find any infirmity in the order impugned and 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 supplied to the parties, upon compliance of all requisite formalities.

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