

02.04.2026  
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**MAT 439 of 2026**  
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IA No.: CAN 1 of 2026 [Inj.]  
**Smt. Sukla Panja (Rajak)**  
- Versus -  
**State of West Bengal & Others**

Ms. Usha Maity,  
Mr. Sakya Maity  
...For the Appellant.  
Ms. Tapati Samanta  
...For the State/Respondents.  
Ms. Koyeli Bhattacharyya  
... For the WBBSE.  
Mr. Sumon Dey,  
Ms. Sayantanee Bhattacharjee  
... For the Respondent nos.5 & 6.

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred challenging an order dated 15<sup>th</sup> January, 2026 passed by the learned single Judge in a writ petition, being WPA 5254 of 2024 which was preferred by the writ petitioner/appellant herein primarily challenging orders passed by the President, Ad-hoc Committee, West Bengal Board of Secondary Education (hereinafter referred to as the said Board) observing *inter alia* that the service of the appellant has ceased as deemed resignation for remaining absent from duty for more than ten years.

Records reveal that by a memo dated 12<sup>th</sup> September, 2023 issued by the Deputy Secretary

(General) of the said Board, the appellant was communicated an order dated 10<sup>th</sup> August, 2023 passed by the President, Ad-hoc Committee of the said Board declaring that the appellant '*is ceased to be in the employment as she be deemed to have resigned*'. Subsequent thereto, a corrigendum order dated 12<sup>th</sup> September, 2023 was issued by the same authority observing that the appellant '*is ceased to be in the employment as she be deemed to have resigned w.e.f. 22.12.2012*'.

Ms. Maity, learned advocate appearing for the appellant submits that the learned single Judge passed the order being oblivious of the fact that the appellant was not granted any opportunity of hearing prior to issuance of the said orders and for such violation of the principles of natural justice, the learned single Judge ought not to have refused to exercise jurisdiction.

She further submits that there is no provision towards preference of any statutory appeal against an order passed as per Rule 11(i) of the notification dated 15<sup>th</sup> December, 1977 (Leave Rules) and that as such the learned single Judge erred in law in observing that '*the said order is an appealable one*'.

Answering our query, Ms. Bhattacharyya, learned advocate appearing for the said Board submits that

the order of deemed resignation is not an appealable one.

Ms. Samanta and Mr. Dey, learned advocates enter appearance on behalf of the State/respondents and the school authorities/respondent nos.5 and 6 respectively.

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

It appears that no disciplinary proceeding was initiated against the appellant and no order of penalty was imposed upon her. Under the West Bengal Board of Secondary Education (Appointment, Confirmation, Conduct and Discipline of Teachers and Non-Teaching Staff) Rules, 2018 (hereinafter referred to as the 2018 Rules) there is a provision towards preference of a statutory appeal against a final order imposing any of the penalties under Rule 9(2) of the 2018 Rules. However, there exists no provision towards preference of any statutory appeal against the an order passed in terms of the Rule 11(i) of the Leave Rules. Had such fact been brought to the notice of the learned single Judge, the order would have been otherwise.

The order impugned in the present appeal is thus not sustainable and is, accordingly, set aside and this Court remands the matter to the learned single Judge

for hearing the same on merits upon exchange of affidavits by the parties.

In view thereof, we direct the respondents to file their affidavits-in-opposition to the writ petition within a period of four weeks from date. Replies thereto, if any, be filed within two weeks thereafter.

The parties would be at liberty to mention the matter for final hearing after expiry of the above period towards exchange of affidavits and we request the learned single Judge to dispose of the writ petition expeditiously without granting any unnecessary adjournment to either of the parties.

With the above observations and directions, the appeal and the connected application are disposed of.

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.)**