

Form No. J(2)

Item No. DL / 01

RKD – A.R.(CT)

IN THE HIGH COURT AT CALCUTTA

Special Civil Jurisdiction
(Appellate Side)

CPAN 480 OF 2025

IN

MAT 1221 OF 2019

Anirban Ghosh

-Vs-

**Sri Vinod Kumar, Principal Secretary,
School Education Department,
Government of West Bengal**

BEFORE:

THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

&

THE HON'BLE JUSTICE UDAY KUMAR

For the Applicant : Mr. L. K. Gupta,
Mr. Arjun Ray Mukherjee,
Mr. Partha Pratim Dutta,

For the Alleged Contemnor : Mr. K. J. Yusuf,
Mr. Parikshit Goswami

Hearing concluded on : 24.04.2026

Judgment On : 24.04.2026

SAUGATA BHATTACHARYYA, J.:

1. Contempt petition is heard at length in presence of the learned advocates representing the petitioner and alleged contemnor.

2. Mr. Gupta, learned senior advocate representing the petitioner submits that part of the judgment delivered by the coordinate Bench on 3rd September, 2020 on two intra court appeals one being ***MAT 1221 of 2019 (State of West Bengal v. Anirban Ghosh & Ors.)*** and another being ***MAT 1367 of 2019 (State of West Bengal & Ors. v. Barun Kumar Ghosh & Ors.)*** is violated.
3. It is strenuously argued on behalf of the petitioner in order to demonstrate before this Court that the order passed by the alleged contemnor dated 15th January, 2025 is not inconsonance with the directions as contained in the said judgement dated 3rd September, 2020.
4. It is contended on behalf of the petitioner that judgment dated 3rd September, 2020 had two facets one is direction upon the concerned respondent authorities to pay salaries equal to basic pay in the scale of pay of regular teacher working in higher secondary section in a non-Government aided Higher Secondary School with effect from 28th July, 2010 till 24th December, 2013.
5. The coordinate Bench also granted liberty to the petitioners to make representations before the alleged contemnor seeking payment of arrear salary at the same rate which was directed vide said judgment dated 3rd September, 2020 for the period from 28th July, 2010 till 24th December, 2013 in the event they were found to be

entitled on production of records of the respective schools relating to their attendance for the relevant period.

6. It is urged on behalf of the petitioner that though alleged contemnor passed a reasoned order on 15th January, 2025 but the principle which was required to be adhered to in terms of the judgment dated 3rd September, 2020 was not followed which tantamount to wilful, deliberate violation and an appropriate order may be passed on this contempt petition by issuing rule.
7. Drawing our notice to the relevant part of the judgment dated 3rd September, 2020 it is also elaborated that the coordinate Bench specifically observed merely because petitioners were initially appointed on contractual basis that would not negate their claim on arrear salary but in contradistinction thereto while passing reasoned order by the alleged contemnor dated 15th January, 2025 contractual appointment of the petitioner was considered to be one of the grounds in denying his entitlement to receive arrear salary which is contumacious act on the part of the alleged contemnor.
8. Mr. Yusuf, learned Additional Government Pleader has drawn attention of this Court to order passed by the Hon'ble Supreme Court dated 16th July, 2024 on a ***Special Leave to Appeal (Civil) No. 14355/21 (The State of West Bengal & Ors. v. Anirban Ghosh & Ors.)*** along with another ***Special Leave to Appeal (Civil)***

No.2809/21 and Transfer Petitions (Civil) No(s).1288-1297 of 2022.

9. Vide order dated 16th July, 2024 aforesaid matters were dismissed by the Hon'ble Supreme Court and Government of West Bengal was directed to comply the impugned judgment of the coordinate Bench within a particular time.
10. Reliance is also placed on another order of the Hon'ble Supreme Court dated 6th January, 2026 passed on contempt petitions whereby Hon'ble Supreme Court in paragraph 12 onwards specifically granted liberty to the petitioners to submit fresh representation before the Secretary, School Education Department within a specified time and on receipt of those representations Secretary, School Education Department on taking certain steps was directed to pass detailed reasoned order on consideration of the representations and submissions to be advanced on behalf of the petitioners.
11. It is submitted on behalf of the alleged contemnor that the contempt applicants in those contempt petitions which were disposed of by the Hon'ble Supreme Court vide judgment dated 6th January, 2026 are similarly circumstanced like the present petitioner. Therefore, present petitioner is required to be similarly treated in terms of the order dated 6th January, 2026.

12. Mr. Gupta, learned Senior Advocate representing the petitioner in the present contempt petition has submitted that the petitioner was not a party in the contempt petitions which were disposed of by the Hon'ble Supreme Court vide order dated 6th January, 2026. Therefore, said order does not bind the petitioner and it is open to the petitioner to make out a case by filing a contempt petition that one part of the judgment dated 3rd September, 2020 whereby alleged contemnor was directed to take decision on entitlement of the petitioners to receive arrear salary is violated as steps were not taken by the said alleged contemnor following the principle set forth in the judgment of the coordinate Bench dated 3rd September, 2020.
13. Having considered the rival submissions made on behalf of the parties and taking note of the judgment of the coordinate Bench dated 3rd September, 2020 as well as the judgments/orders passed by the Hon'ble Supreme Court dated 16th July, 2024 and 6th January, 2026 passed in contempt petitions, it is found that after the order was passed by the Hon'ble Supreme Court on 16th July, 2024 it was open so far as the present court is concerned to consider act of violation of the judgment dated 3rd September, 2020 as the case made out in the present contempt petition to the extent of taking decision by the alleged contemnor on the representation made by the present petitioner seeking release of arrear salaries.
14. But the situation is altered after the order was passed by the Hon'ble Supreme Court on 6th January, 2026 on contempt petitions

relating to similarly circumstanced other candidates. While disposing of the contempt petitions of similarly circumstanced other candidates by passing an order on 6th January, 2026 Hon'ble Supreme Court granted fresh liberty to the petitioners therein to submit representation before the Secretary, School Education Department within a period of six weeks raising their grievances/claims/entitlements in terms of the order passed by the coordinate Bench on 3rd September, 2020.

15. Secretary, School Education Department was directed to afford an opportunity of hearing to the petitioners in representative capacity either in person or through legal advisor/advocate. Records lying in the schools were directed to call for prior to the hearing and opportunity was granted to the candidates to inspect those records.
16. Finally, Secretary, School Education Department was directed to pass a detailed reasoned order on consideration of the representations and submissions of petitioners in those contempt petitions which were disposed of by the Hon'ble Supreme Court. Present petitioner shall also be at liberty to make representation before the alleged contemnor as opportunity was granted to similarly circumstanced candidates vide order dated 6th January, 2026 by the Hon'ble Supreme Court.
17. If such representation is made by fortnight from date, same shall be considered along with similarly circumstanced other candidates

whose contempt petitions were disposed of vide order dated 6th January, 2026. If by this time exercise in terms of the order dated 6th January, 2026 is over in that event following same method representation shall be considered by three months thereafter as it was directed by the Hon'ble Supreme Court vide order dated 6th January, 2026. It is made clear that at the time of taking decision by the Secretary, School Education Department, he will not be influenced by his previous order dated 15th January, 2025.

18. It needs to be recorded herein that the case of the present petitioner and cases of similarly circumstanced other candidates who approached the Hon'ble Supreme Court are required to be decided by the Secretary, School Education Department uniformly taking note of the observations made by the Hon'ble Supreme Court in the order dated 16th July, 2024 while dismissing Special Leave Petitions of the State of West Bengal which were preferred against the judgment dated 3rd September, 2020 of the coordinate Bench.

19. Relevant part of the said order dated 16th July, 2024 runs *infra*:-

“1. Having heard learned counsel for the parties, we see no reason to interfere in the impugned order(s). The petitions for Special Leave to Appeal are dismissed. Pending application(s), if any, are disposed of.

2. Having regard to the fact that the impugned judgment was passed on 3rd September, 2020 and the same has remained stayed in terms

of the order passed by this Court on 20th September, 2021 in SLP (Civil) No. 14355/2021 and on 29th October, 2021 in SLP (Civil) No. 2809/2021, it is deemed appropriate to direct the State Government of West Bengal to make compliances of the impugned judgment within a period of three months from today. The relief granted in the said judgment shall also be extended to all similarly placed private respondents including the intervenors/impleaders who have moved applications in the present petitions.

(Emphasis supplied).

20. It was made clear by the Hon'ble Supreme Court in the order dated 16th July, 2024 that similar relief shall be granted to the interveners/impleaders who moved applications in connection with Special Leave Petitions preferred by the State of West Bengal including similarly placed private respondents.
21. After the order was passed by the Hon'ble Supreme Court disposing of contempt petitions on 6th January, 2026 if two separate parameters are set forth by the State authority for consideration of representations of similarly circumstanced candidates it would create two different classes of candidates that is not advisable since it was directed by the Hon'ble Supreme Court in the order dated 16th July, 2024 that similarly placed private respondents /intervenors /impleaders are also entitled to get identical relief as it was extended to the respondents in two intra-court appeals which were

disposed of vide judgment dated 3rd September, 2020 by the coordinate Bench.

22. Before parting with we also find it relevant to record that case of violation of the judgment dated 3rd September, 2020 is made out in the present contempt petition after the reasoned order passed on 15th January, 2025 by the alleged contemnor on the plea that observations in the said judgment dated 3rd September, 2020 were not followed while taking such decision on 15th January, 2025; but it appears to us that in terms of said judgment dated 3rd September, 2020 reasoned order was passed on 15th January, 2025 by the alleged contemnor rightly or wrongly. Passing of such reasoned order dated 15th January, 2025 by the alleged contemnor ought not to be construed as wilful and deliberate violation. In this regard reliance is placed on the judgment of Hon'ble Supreme Court, reported in **(1996) 6 SCC 291 (J.S. Parihar v. Ganpat Duggar & Ors.)**.

23. With the aforesaid directions and observations, present contempt petition is disposed of.

24. Urgent photostat certified copy of this judgment, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Saugata Bhattacharyya, J.)