

IN THE HIGH COURT AT CALCUTTA**Civil Appellate Jurisdiction****APPELLATE SIDE**

Present:

**The Hon'ble Justice Tapabrata Chakraborty
&
The Hon'ble Justice Partha Sarathi Chatterjee**

FMA 1219 of 2025

With

IA No. CAN 1 of 2025

Abhishek Maity

Vs.

The West Bengal State University & Ors.

For the Appellant : Mr. Kumarjyoti Tewari, Sr. Adv.,
Mr. Prantick Ghosh,
Mr. Anirudh Tewari,
Mr. Amrit Singh,
Mr. Prasad Bhattacharya.

For the University : Mr. Santanu Kumar Mitra, Sr. Govt. Adv.,
Mr. Amartya Pal,
Ms. Mahek Jaiswal.

Hearing is concluded on : 05.03.2026

Judgment On : 25.03.2026

Partha Sarathi Chatterjee, J.

1. The present appeal challenges the legality and propriety of the order dated 19.06.2025 passed by the learned Single Bench in WPA 11863 of 2025,

whereby the writ petition preferred by the writ petitioner/appellant (hereinafter referred to as 'the appellant') was dismissed.

2. Briefly stated, the facts, as projected by the appellant in his pleadings, are that the appellant, who was a student of Basirhat College in the District of North 24 Parganas, affiliated to West Bengal State University, completed his B.Sc. (Honours) in Chemistry in the year 2014. He initially received his marksheet dated 4th August, 2014 in respect of the Part-III examination, which reflected that he had been awarded 25 out of 100 and 29 out of 100 in CEMA Papers V and VI respectively.
3. Being dissatisfied with the marks so awarded, the appellant applied for review of the answer scripts of the said papers. Subsequently, a provisional marksheet dated 29.12.2014 was issued indicating that his marks in the said papers had been increased by 7 and 8 marks respectively, raising them to 32 and 37. Thereafter, the appellant received the final marksheet dated 19th April, 2015.
4. For the purpose of pursuing a B.Ed. course from another University, the appellant applied for a migration certificate. Upon verification of all his documents, including the marksheets, the University issued a migration certificate to the appellant on 7th October, 2015, granting him no objection to take admission to any course in another University.
5. In the year 2016, the appellant visited the University to collect his provisional certificate. At that time, the marksheet earlier issued to him was taken from his custody and he was informed that the marks in the said two papers, as reflected in his final marksheet, did not tally with the records maintained by the University. Thereafter, the appellant requested the

University to return his original marksheet; however, the University did not accede to such request. Instead, by issuing a certificate, the University stated that the final marksheet submitted by the appellant was under verification and that the provisional certificate could not be issued to him until the verification process was completed.

6. In the meantime, the appellant qualified in the Teacher's Eligibility Test (for short, "TET") held on 16th August, 2015 and an interview list was published on 23rd August, 2019. However, owing to certain disputes, a writ proceeding was initiated in that regard. Ultimately, a panel was published on 23rd August, 2023, in which the appellant's name appeared at serial no. 555. Pursuant thereto, the appellant joined Kumarpur Parashmoni Sikshbitan (H.S.) as a teacher on 6th December, 2024. However, approval of his appointment was granted subject to the condition that the appellant would furnish his final marksheet and original pass certificate.
7. On November 9, 2023, the appellant submitted an application under the relevant provisions of Right to Information Act, 2005 (for short, the 2005 Act) requesting information and supply of answer scripts of those two papers along with his post review mark sheet. However, despite receipt of such application, no documents had been supplied to the appellant which prompted the appellant to prefer an appeal under the 2005 Act.
8. Subsequently, by a letter dated 27.08.2024, the State Information Commissioner informed the appellant that the SPIO had intimated that the answer scripts could not be supplied, as the same were required to be preserved only for a period of six months from the date of publication of the results. However, with regard to the supply of a copy of the post-review

marksheet, the appellant was instructed to appear before the authority on 30.08.2024 along with a copy of his original marksheet.

9. Thereafter, by a letter dated 20.09.2024, the SPIO of the University informed the appellant that the marksheet (Serial No. 314117215 dated 19th April, 2015, post-review), as submitted by the appellant, did not match with the records of the University and that, as per the University records, there had been no change in the marks after re-evaluation. It was further stated that there was no provision for issuance of a fresh marksheet in a case where no change in marks had occurred. The original marksheet available with the appellant might, therefore, be treated as the final marksheet.
10. In the aforesaid conspectus of facts, the appellant submitted a representation dated 30.04.2025 before the competent authorities of the University requesting them to return his original marksheet and to treat the post-review marksheet bearing Serial No. 314117215 dated 19th April, 2015 as the original and genuine marksheet, and to issue a certificate to that effect.
11. Subsequently, alleging inaction on the part of the University in considering the said representation dated 30.04.2025, the appellant filed a writ petition being WPA 11863 of 2025, inter alia, praying for a direction upon the University to issue his provisional certificate, original marksheet and pass certificate by treating the marks appearing in the post-review marksheet as original.
12. The specific case of the University, as reflected in the affidavit-in-opposition to the application for stay filed by the appellant in connection with the present appeal, is that the appellant, bearing Roll No. 314114110072 and Registration No. 10910117111001229, completed his B.Sc. Examination (three

years) in 2014. As per the records of the University, he secured 25 marks out of 100 and 29 marks out of 100 in Papers V and VI respectively in the Part-III Chemistry Honours Examination.

13. As per the prevailing rules, a candidate like the appellant was required to secure a minimum of 30% marks in the subject/group of subjects in the Final Examination, which constituted the minimum qualifying or pass marks in both the theoretical and practical portions, and 30% in the aggregate of the subject in cases where the subject had a practical component. However, in order to obtain an Honours degree, such a candidate was required to secure at least 40% marks in the aggregate. In the event the aggregate marks were below 40% but above 30%, the candidate would be declared to have qualified with a pass degree in the General Stream.
14. The appellant applied for review of the answer scripts of the said two papers. Upon receipt of his application, the relevant documents were forwarded to the Confidential Printer of the University for verification. However, as per the database of the University, there had been no change in his marks after re-evaluation and, therefore, no fresh marksheet was issued in his favour in terms of the prevailing rules of the University. It was further stated that, as per the verification report of the Confidential Printer dated 02.09.2024, the marksheet bearing no. Nil dated 29th December, 2014 and the marksheet bearing no. 314117215 dated 19th April, 2015, as submitted by the appellant, did not match with the marks preserved in the database of the University. As such, the said two marksheets, namely the marksheet dated 29th December, 2014 and the marksheet bearing No. 314117215 dated 19th April, 2015, are fake and/or forged documents.

15. In similar circumstances, another candidate, namely Debjani Das, had approached this Court by filing a writ petition being WPA 2323 of 2024. By an order dated 08.08.2024, a learned Single Bench noted that the marks reflected in the marksheet issued in favour of Miss Das in 2015 did not tally with the data preserved in the University's database. The Court further recorded that, during the relevant period, certain fake marksheets and certificates had been issued by unscrupulous persons connected with the University, which led to an investigation by the CID, culminating in submission of a charge-sheet and suspension of the then Controller of Examinations. It was also observed that Miss Das had approached the University in the year 2022, nearly seven years after publication of the results, despite being aware that answer scripts are preserved only for six months, although she was purportedly issued a certificate in 2015. In such circumstances, the writ petition was dismissed holding that Miss Das had failed to establish that the marksheet relied upon by her was genuine.
16. An intra-court appeal being MAT No. 1934 of 2024 was preferred challenging the order dated 08.08.2024. However, the appeal was dismissed, thereby upholding the order dated 08.08.2024 passed in WPA No. 2323 of 2024, wherein it was held that the marksheet produced by Miss Das was forged. The Division Bench also deprecated her approach in seeking issuance of a pass certificate through a representation made in the year 2023, terming the same as negligence and/or lapse on her part.
17. In the course of hearing, Mr. Tewari, learned Senior Advocate appearing for the appellant, assiduously argued that, being dissatisfied with the marks awarded to the appellant in CEMA Papers V and VI, the appellant, acting in

good faith, applied for review of the answer scripts. Pursuant thereto, he was issued a post-review marksheet indicating that, upon re-evaluation of the answer scripts of the said two papers, his marks had been increased by 7 and 8 marks respectively. However, when the appellant subsequently approached the University for issuance of his pass certificate, the University took a different stand, contending that the marks reflected in the post-review marksheet did not tally with the data preserved in its database. He argued that the University cannot be permitted to take inconsistent stands at different points of time and cannot take advantage of its own wrong.

18. He further contended that the University itself, upon verification of all the relevant documents of the appellant, including the marks obtained by him, had issued a migration certificate in his favour. However, when the appellant subsequently approached the University for issuance of a pass certificate, the same was withheld on the flimsy ground that the marks reflected in the appellant's post-review marksheet did not tally with the data preserved in the University's database.

19. He contended that, following allegations regarding the issuance of fake mark sheets and certificates by certain officials of the University, an investigation was conducted by the CID, and criminal as well as disciplinary proceedings were initiated against the concerned officials. However, the appellant was not arraigned as an accused in the said criminal proceeding; rather, he has been cited as a witness in the charge sheet.

20. He referred to a decision rendered by a learned Single Bench of this Court in *WPA 28202 of 2017 (Ashish Prasad vs. The State of West Bengal & Ors.)* and two enquiry reports filed by the CID before this Court in compliance with

the orders passed in two different writ petitions, namely, *WPA 28202 of 2017* and *WPA 28203 of 2017 (Subhojit Mitra vs. The State of West Bengal & Ors.)*, and submitted that, in similar circumstances, a candidate, namely, Ashish Prasad, had approached the University for issuance of a pass certificate in his favour. The University, however, refused to issue such certificate on the ground that the mark sheets and certificates produced by Mr. Prasad were fake. Aggrieved thereby, Mr. Prasad filed the said writ petition, and a learned Single Bench of this Court, by an interlocutory order, directed the CID to look into the matter. Subsequently, the University decided to issue the pass certificate in his favour. He therefore submitted that, in the present case as well, the matter may be remitted to the University with a direction to revisit the issue.

21. Mr. Mitra, learned Advocate appearing for the University, vehemently opposed the contention advanced by Mr. Tewari. He submitted that, at the relevant point of time, a racket was operating within the University which used to issue fake mark sheets and certificates. He further contended that the modus operandi of the said racket was that candidates who either failed to secure pass marks or did not obtain marks up to their expectation would apply for review, whereafter the members of the racket used to issue post-review mark sheets and certificates in favour of such candidates.
22. He argued that upon detection of such misconduct, criminal as well as disciplinary proceedings were initiated against certain officials of the University, including the then Controller of Examinations and the Assistant Controller of Examinations.

23. He contended that, in the present case, the appellant appeared in the B.Sc. Part-III Examination in 2013. However, he secured 25 out of 100 and 29 out of 100 in CEMA Papers V and VI of the said Part-III Examination. As he obtained more than 30% marks in the aggregate of the Honours course, he was declared to have passed as a graduate in the General stream.
24. In 2016, the appellant applied for issuance of a provisional pass certificate upon submitting his Part-III final mark sheet. However, before completion of the verification process of the said final mark sheet, such certificate could not be issued in his favour. Thereafter, in 2023, i.e., almost nine years after his final examination, the appellant submitted an application under the relevant provisions of the 2005 Act seeking supply of the answer scripts of those two papers along with his post-review mark sheet.
25. The University informed him that, since answer scripts are preserved only for a period of six months from the date of publication of the results, the same could not be supplied to him. It was further intimated that there had been no change in the marks obtained by the appellant in the said two papers and, therefore, in terms of the prevailing rules, no post-review mark sheet had been issued in his favour. The mark sheet earlier issued to him was to be treated as the original mark sheet. He further contended that the marks shown to have been secured by the appellant in Papers V and VI do not match with the University's database and, as such, the post-review mark sheet produced by the appellant (Annexure-B at page 16 of the application for stay) is a fake and forged document.
26. Having given anxious consideration to the submissions advanced by the respective parties and upon perusing the materials on record, it appears that

in 2013 the appellant appeared in the B.Sc. Part-III Examination (Chemistry Honours). In the statement of marks bearing Serial No. 314-03206 dated 4th August, 2014, he was shown to have secured 25 out of 100 and 29 out of 100 in Papers V and VI respectively. On 20th August, 2014, the appellant applied for review of the said papers upon depositing the requisite fees. Subsequently, the appellant was issued a migration certificate dated 7th October, 2015.

27. The certificate dated 25th October, 2016 indicates that the appellant approached the University for issuance of a provisional certificate upon submitting his Part-III final mark sheet. However, the said certificate records that the final mark sheet submitted by the appellant was under verification and that, until completion of the verification process, the provisional certificate could not be issued to him.

28. On 9.11.2023, the appellant submitted an application under the relevant provisions of the 2005 Act for supply of answer scripts of the said two papers along with post review mark sheet. In the said application, it was categorically stated by the appellant that 'However, after repeated appeals, I was never issued my Post Review mark sheet'. However, the appellant himself placed a post review marksheet dated 29th December, 2014 as appearing at page no. 16, Annexure- B to the application for stay being CAN 1 of 2025.

29. In his writ petition, the appellant averred that one Kousik Bhattacharya, Department of Examination had informed him that upon re-evaluation of the answer scripts of those two papers, 7 and 8 marks were increased in those two papers, respectively.

30. The records suggest that, based on allegations that a racket was operating in the University at the material point of time which used to issue fake mark

sheets and certificates upon receipt of applications for review or on applications submitted under the 2005 Act, criminal as well as disciplinary proceedings were initiated against the then Controller of Examinations and the Assistant Controller of Examinations, and both of them are presently under suspension. As submitted on behalf of the appellant, the appellant has been cited as a witness in the charge sheet filed in connection with the said criminal case.

31. The University was categorical in making a statement on oath that marks shown to have been secured by the appellant in those two papers in the marksheet dated 29th December, 2014 did not match with its database. Therefore, the marksheet which does not reflect correct marks would inevitably be treated as forged and/or fake document.
32. In 2014, the appellant applied for review; however, no post-review mark sheet was issued to him. In 2016, he applied for issuance of a provisional certificate, but the same was not issued. The appellant did not take any effective steps thereafter to obtain the said documents. Subsequently, in 2023, he submitted an application under the 2005 Act requesting supply of the answer scripts of the said two papers along with the post-review mark sheet. However, by relying upon the mark sheet dated 29.12.2014, he appeared in the TET examination and secured appointment as an Assistant Teacher in a recognised High School. As approval of his appointment was subject to the condition of production of the original mark sheet and certificate, he submitted the said application under the 2005 Act.
33. Lastly, the appellant preferred the writ petition primarily seeking a direction upon the concerned authorities of the University to issue a post-

review mark sheet by treating the marks shown to have been secured by him in the said two papers in the mark sheet dated 29.12.2014 as genuine. According to the University, however, the said mark sheet is a fake and/or forged document, as the marks reflected therein do not match with the University's database. If the marks shown in the said mark sheet do not tally with the records maintained in the database of the University, the document cannot be treated as genuine.

34. If the said marks do not match with the database of the University, it would not be justified to direct the University to issue a mark sheet reflecting marks which do not tally with its records and showing the marks in those two papers which are claimed by the appellant to have been increased by 7 and 8 marks respectively upon re-evaluation of the answer scripts of the said papers, appears to have no basis.
35. As noticed earlier, in similar circumstances, a learned Single Bench of this Court in a writ petition, being WPA 2323 of 2024, refused to accede to a similar prayer made by a candidate. The order passed in the said writ petition was carried in appeal, and a Co-ordinate Bench affirmed the decision of the learned Single Bench. In an almost identical situation, we do not find any justification to take a view contrary to that taken by the Co-ordinate Bench.
36. In the cases of Ashis Prasad and Subhojit Mitra, the candidates approached the Court contemporaneously, and their answer scripts were available. Their original certificates for the B.Sc. Honours Examination of 2012 were being withheld, while the University was issuing them certificates pertaining to the B.Sc. General (Casual) Examination of 2013, in which they had not even appeared, as is evident from the attendance sheets of the 2013

examination. Therefore, the factual matrix of the said cases is distinguishable, and as such, the decisions rendered therein are not applicable to the present case.

37. The learned Single Judge, in the present case, upon considering all the factual aspects, arrived at a specific finding and declined to accept the appellant's contention. We do not find any infirmity or perversity in the decision of the learned Single Judge. Accordingly, the appeal and the connected application stand dismissed. However, there shall be no order as to costs.

(Partha Sarathi Chatterjee, J.)

(Tapabrata Chakraborty, J.)