04th Nov.,2026

Itemno.ADSL 1
Court No. 8
Vacation Bench
Rohit, A.R.(Ct.)

In the High Court at Calcutta

Civil Appellate Jurisdiction
Appellate Side

Case No. **MAT 1746 of 2026**
With
CAN 1 of 2026 & CAN 2 of 2026

In the matter of :

Rituparna Choudhury

....Petitioner

VS.

The State of West Bengal & Ors.

....Respondents

For the Petitioner:

Mr. Abhijit Mondal

....Advocate

For the State Respondent:

Mr. Jyoti Prakash Chastterjee

....Advocate

1. The present appeal has been preferred against an order whereby the learned Single Judge disposed of the writ petition filed by the present appellant, in which the appellant had assailed a notice published by the respondent university on October 5, 2026 to the effect that online applications were invited from eligible intending reserved category candidates for admission to the PH.D. programme, 2025(Round II) under the Faculty Council (Arts, Commerce, Law, etc.).

2. The learned Single Judge, while so disposing of, observed that nevertheless, as the requirement of law is to publish the vacancy twice prior to de-reservation, accordingly, no relief can be granted to

the petitioner (present appellant) immediately, directing the university to take steps to follow the law of de-reservation.

3. However, the appellant argues that in terms of the extant Memoranda dated May 26, 2023 and September 18, 2023, where reservation of seats for one or many programmes or streams in a particular academic session remains unfulfilled, the procedure of de-reservation shall be followed in the manner that if, after duly entertaining all applications to fill up reserved seats, it is found that some seats reserved for the Economically Weaker Section (EWS) remain unfilled during the academic session for want of suitable number of candidates from the respective categories, those seats may be de-reserved and filled up by general candidates where it is specified that due process for filling up of the seats by the candidates of the specific categories have been followed by the institutions concerned and no suitable candidate of the reserved categories is available to fill up those seats. No vacant reserved seat, as per the said provision, shall be carried forward to the next academic session under any circumstances.

4. Furthermore, by introduction of Clause 6 vide Memorandum dated September 18, 2023, it has been provided that such filling up of vacant seats

for EWS category shall be made only from those left out candidates in the general merit list for admission prepared by the concerned institution and no new candidate outside the said panel shall be considered for such admission. Until and unless the separate merit list of EWS candidates is exhausted by filling up of available seats for EWS category as per the Memorandum dated May 26, 2023, de-reservation proposal shall not be entertained.

5. It is contended that by flouting the said provisions, the entire admission process has been sought to be re-opened by the impugned notice despite the PH.D. programme counselling having already reached its second round.

6. Learned counsel appearing for the university places strong reliance on the writtenClarification dated January 15, 2025 issued by the Joint Commissioner for Reservation & Additional Secretary to the Additional District Magistrate (Education), PurbaBardhaman, whereby it was stipulated that the reserved candidates will be reconsidered at least two times and it may be ensured that no deserving reserved candidates are left out during the whole process.

7. It is submitted that in terms of the said Clarification, the university has taken due steps so

that no deserving reserved candidates are left out from the process.

8. Upon a careful consideration of the relevant clauses of the said Memoranda and the Clarification, we find that the arguments advanced by the university are not tenable.

9. Whereas the provisions relied on by the appellant find place in Memorandaduly notified in the Official Gazette, the document dated January 15, 2025 is by way of an administrative clarification. Even otherwise, the January 15, 2025 clarification merely indicates that the reserved candidates(clearly indicating those candidates of such category who have already been listed for admission admitted) are to be reconsidered at least twice to ensure that no deserving reserved candidates are left out during the whole process.

10. Read in consonance with the provisions of the Memorandum dated May 26, 2023, as amended vide Memorandum dated September 18, 2023, there cannot be any manner of doubt that the process of reconsideration cannot be elevated to the level of a re-opening of the entire admission process mid-term, thereby ‘changing the goal posts after the game has begun’.

11. In the present case, there could only have been a reconsideration of the reserved candidates who

expressed their willingness and found place on the merit list at the first phase. However, we are apprised by both parties that not a single eligible reserved category candidate was found during the process of admission, thus negating the applicability of the January 15, 2025 Clarification.

12. In any event, as per Clause 3 (e) of the Memorandum dated May 26, 2023, after duly entertaining all applications to fill up reserved seats, if it is found that some seats reserved for EWSs remained unfilled *during the academic session* for want of suitable number of candidates for the respective categories, only then those seats may be de-reserved and filled up by general candidates. Thus, it is the said provision which applies to mid-term vacancies.

13. The further adjunct to the said provision comes in the form of Clause 6 introduced by the Memorandum dated September 18, 2023, whereby such filling up of vacancies of the EWS category shall be made only from those left out candidates in the general merit list for admission prepared by the concerned institution and no new candidate outside the said panel shall be considered for such admission.

14. By issuing the impugned notice dated October 05, 2026, Clause 6 has been squarely violated by

the respondent-university by inviting applications from eligible intending reserved category candidates for admission afresh to the PH.D. programme of 2025 at the second round, thereby throwing open the entire process of admission afresh, despite no eligible reserved category candidate being found at the first stage.

15. Hence, the impugned notice is squarely violative of the aforesaidMemoranda as well as not in compliance with the Clarification dated January 15, 2025. Thus, the said notice cannot stand the scrutiny of law.

16. With due respect, the learned Single Judge overlooked this aspect of the matter in holding that as the requirement of law is to publish the vacancy twice prior to de-reservation, no relief can be granted to the writ petitioner. The provision of re-consideration of the existing reserved category candidates, as held above, cannot be equated with fresh publication of the vacancy twice prior to de-reservation, that to, during the continuance of the PH.D. course.

17. In such view of the matter, the impugned order cannot be sustained.

18. Hence, **MAT 1746** of **2026** is allowed on contest, thereby setting aside the impugned order dated September 24, 2026 passed in WPA 20148 of

2026 and quashing the impugned notice dated October 05, 2026. Since the Court is informed at this stage by learned counsel for the university that no deserving/eligible reserved category candidate has been found even upon undertaking an exercise pursuant to the impugned notification, in any event, the matter reverts back to the position as prior to the said notice. Thus, no third party would be affected in any manner by the above order.

19. We further clarify that the candidature of the writ petitioner/appellant shall be considered by the respondent university duly in accordance with the Memoranda of 2023 as indicated above as expeditiously as possible, preferably, by November 20, 2026.

20. Accordingly, CAN 1 of 2026 and CAN 2 of 2026 stand disposed of as well.

21. No order as to costs.

22. Urgent Photostat certified copies of this order, if applied for, be given to the parties upon compliance with all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Arjun Ray Mukherjee, J.)