IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Ct.3 **06.11.26**
Item No.72(VC) Sws.M

WPA 31423 of 2026

Sohel Ahamed Khan
VS.
The State of West Bengal & Ors.

Mr. Abhijit Mandal
.....for the petitioner

Mr. D.N. Ray, Ld. GP
Mr. Debopriya Gupta, ld. AGP
Mr. Madhu Jana
Ms. Puja Sonkar
Mr. Jyoti Prakash Chatterjee
.....for the University of Burdwan

1. The petitioner has challenged a notification dated 5th October, 2026, issued by the University of Burdwan, whereby on-line applications were invited from the eligible intending reserved category candidates for admission to the Ph.D. Programme, 2025 under the Faculty Council (Arts, Commerce, Law).
2. The issue involved in this writ petition has already been decided by a Division Bench of this Court [in which I was one of the members] on 4th November, 2026, in ***MAT 1746 of 2026 (Rituparna Choudhury vs. The State of West Bengal & Ors.).***
3. The relevant portion of the judgment and order dated 4th November, 2026 are reproduced hereinbelow:

"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 Memoranda duly 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 midterm, 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 midterm 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 aforesaid Memoranda 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 reconsideration 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."

4. The Division Bench has already quashed the impugned notice dated 5th October, 2026, issued by the University of Burdwan.
5. In view of the above, the University of Burdwan is directed to consider the candidature of the writ petitioner duly in accordance with law, as laid down by the Division Bench in MAT 1746 of 2026, within a period of three weeks from the date of communication of this order.
6. The writ petition stands disposed of.

(Arjun Ray Mukherjee, J.)