

**IN THE HIGH COURT AT CALCUTTA**  
**Constitutional Writ Jurisdiction**  
**Appellate Side**

**Present :-**  
**The Hon'ble Justice Moushumi Bhattacharya.**

**WPA 6043 of 2022**  
**With**  
**IA No. CAN 1/2020**  
**(Old No. CAN 4253/2020)**

Dr. Arun Sarkar

Vs.

The State of West Bengal & Ors.

For the petitioner	:	Mr. Subir Sanyal, Adv. Mr. Sagnik Roy Chowdhury, Adv. Mr. Aranya Basu, Adv. Mr. Ratul Biswas, Adv.
For the College	:	Mr. Anindya Bose, Adv. Mr. C. Chatterjee, Adv. Mr. Diptendu Mondal, Adv. Mr. Nikhil Gupta, Adv.
For the WBCSC	:	Mr. Pulak Ranjan Mondal, Adv. Mr. Subhrangsu Panda, Adv. Mrs. Bandana Mondal, Adv.
Last Heard on	:	05.07.2022.
Delivered on	:	08.08.2022.

**Moushumi Bhattacharya, J.**

1. The petitioner served as Assistant Professor in Bengali in Kandi Raj College in Murshidabad for seven years from April, 2010 until April, 2017 before the petitioner was recommended by the West Bengal College Service Commission for appointment as Assistant Professor in Acharya Girish Chandra Bose College (formerly Bangabasi College of Commerce), Kolkata, in the “PH” (Physically Handicapped) category. The petitioner is a physically impaired person (Bi-lateral upper limb amputee) with 80% disability.

2. The petitioner seeks a direction on the Governing Body, the President and the Principal of Acharya Girish Chandra Bose College to confirm and approve his appointment in the post of Assistant Professor in Bengali of the said College. The petitioner also seeks quashing of the decision of the Governing Body of the College taken in the meeting held on 10<sup>th</sup> June, 2017.

**The case of the petitioner**

3. The case of the petitioner, as sought to be made out by Mr. Subir Sanyal, learned senior counsel, is that the petitioner lived in Naihati, North 24 Parganas and was constrained to apply for a new position since the petitioner found it difficult to attend Kandi Raj College, Murshidabad which was at a distance of 480 kilometers, both ways, from Naihati. The petitioner was selected and recommended to Acharya Girish Chandra Bose College by the College Service Commission by a letter dated 27<sup>th</sup>

April, 2017 for the post of Assistant Professor in Bengali in the PH (Physically Handicapped) category. The petitioner is seriously aggrieved by the resolution of the Governing Body taken on 10<sup>th</sup> June, 2017 by which the College Service Commission was requested to reconsider the recommendation of the petitioner for the reasons stated in the impugned decision. The petitioner was thereafter given provisional appointment as Assistant Professor in Bengali in the said College by a letter dated 30<sup>th</sup> August, 2017 issued by the Principal and Secretary of the Governing Body. The provisional appointment was on a particular scale of pay and the petitioner was informed that the petitioner would be on probation for one year from the date on which the petitioner joined the post. Counsel submits that the petitioner thereafter joined the post and successfully performed his duties as Assistant Professor in the same manner as the petitioner had done in Kandi Raj College, Murshidabad.

4. The petitioner in the meantime filed a writ petition being W.P. No. 29975 (W) of 2017 in this Court which was dismissed by a judgment of a learned Single Judge, as His Lordship then was, on 22<sup>nd</sup> June, 2020. While dismissing the writ petition for want of requisite pleading, the petitioner was given liberty to challenge the decision of the Governing Body dated 10<sup>th</sup> June, 2017. The present writ petition was filed pursuant to the said order.

5. Counsel submits that the petitioner comes within the definitions of The Right of Persons with Disabilities Act, 2016 as a person having permanent locomotor disability of 80%. Counsel further submits that

the petitioner was appointed to the post in question against a vacancy reserved for the physically handicapped hence the petitioner has a right to be appointed to the said identified reserved post. Counsel places reliance on the 2016 Act which was enacted in place of the earlier Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. Counsel submits that the impugned decision of the Governing Body culminated in the refusal of the College to issue the letter of appointment to the petitioner to the substantive post and is arbitrary, discriminatory and in violation of the 2016 Act.

#### The response of the College

6. Mr. Partha Sarathi Bhattacharyya, learned senior counsel appearing on behalf of the College, submits that the issue in the present writ petition has already been decided by the judgment of the learned Single Judge delivered on 22<sup>nd</sup> June, 2020 and is therefore barred by the principles of *Res judicata*. Counsel submits that a mere recommendation for appointment to the concerned post does not confer any right on the petitioner to being appointed to such post. It is also submitted that the recommendation of the College Service Commission is not binding upon the College. Counsel further submits that since advertisement for the post was published by the College Service Commission on 30<sup>th</sup> June, 2015, the facts would be governed by the 1995 Act as the 2016 Act came into force only on 19<sup>th</sup> April, 2017.

The Court's view on;

I. Res Judicata

7. According to counsel appearing for the respondent College, the present issue has been decided by a learned Single Judge, as his lordship then was, by the judgment delivered on 22.06.2020 in W.P. No. 29975(w) of 2017. The writ petitioner had approached the Court with the plea that as a person with disability, the petitioner should be appointed to the post of Assistant Professor of Bengali in the concerned College. The Court however found that the writ petition did not contain any evidence of the College authorities refusing to appoint the writ petitioner. The Court was accordingly of the view that the prayer of appointment could not be granted. The writ petitioner was however given the liberty to challenge the decision of the Governing Body dated 10.06.2017 which was disclosed by the College in its affidavit-in-opposition in the earlier proceeding. The Court held that the petitioner does not have a right to be appointed on the recommendation made by the College Service Commission: ref. *Balakrushna Behera vs. Satya Prakash Dash; (2008) 1 SCC 318*. The Court also held that the recommendation of the petitioner by the College Service Commission for being appointed as an Assistant Professor of Bengali in the concerned College did not confer any right on the petitioner to seek appointment from the College.

8. Upon considering the judgment passed by the learned Judge, it appears that the issue with regard to the petitioner not being entitled to claiming a right to be appointed to the post against the particular

vacancy was decided by the Court as was the issue of the College not being under any obligation to act upon the recommendation of the College Service Commission. Although the petitioner has come with a new writ petition, the principle of *res judicata* would apply to these two issues. This Court is therefore not inclined to adjudicate on these issues in the present proceeding.

9. The newness, (the term has recently been added to the Cambridge Dictionary), is the decision of the Governing Body of the College taken in its meeting on 10<sup>th</sup> June, 2017 which is impugned in the present writ petition and was not challenged in the earlier proceeding. The adjudication will then be confined to the legality of this decision under the relevant statutes and the rights guaranteed to the petitioner under the Constitution of India.

## II. The petitioner is a Person with Disability

10. The undisputed fact is that the petitioner, while working as an Assistant Teacher in a High School met with a train accident and had to undergo bilateral amputation of both his hands. The petitioner claims 80% disability as a result of the amputation of his upper limbs. The petitioner was accommodated in the physically handicapped category of Assistant Teachers through the West Bengal School Service Commission and was thereafter selected as a physically handicapped category candidate by the College Service Commission and joined the Kandi Raj College, Murshidabad. The petitioner sought appointment in a college nearer to his residence since the petitioner found it difficult to travel 480

kms on a daily basis from his house in Naihati to Kandi Raj College. The petitioner applied for the substantive post of Assistant Professor of Bengali in the PH category against the vacancy with RP No. 12.

### III. Seamless transition from the 1995 to the 2016 Act

11. The first issue which must be decided is whether the case of the petitioner would be governed under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 or The Rights of Persons with Disabilities Act, 2016. The College takes a stand that the 1995 Act would apply since the advertisement for the substantive post was published by the College Service Commission on 30<sup>th</sup> June, 2015 when the earlier Act was in existence. The 2016 Act came into effect on 19<sup>th</sup> April, 2017. The Court in the earlier proceeding had decided against the College authorities on this issue being of the view that the petitioner can be categorized as a person with disability even under the provisions of the 1995 Act. Notwithstanding the view taken, section 102(2) of the 2016 Act provides for a saving clause with reference to anything done or any action taken under the 1995 Act as deemed to have been done or taken under the corresponding provisions of the 2016 Act.

12. Hence, even if the advertisement was published by the Commission on 30<sup>th</sup> June, 2015 before the 2016 Act came into force, the action of the Commission and the College taken on the basis of such advertisement would continue under the provisions of the 2016 Act. It

must also be borne in mind that The Rights of Persons with Disabilities Act, 2016 was enacted to give effect to the United Nations Convention on the Rights of Persons with Disabilities. The United Nations General Assembly adopted its Convention on the Rights of Persons with Disabilities on 13<sup>th</sup> December, 2006 and laid down certain principles for empowerment of persons with disabilities including respect for inherent dignity, individual autonomy and the freedom to make one's own choices. The Convention also placed emphasis on non-discrimination and full and effective participation of such persons. The Statement of Objects and Reasons of the 2016 Act specifically states that after the enactment of the 1995 Act, the conceptual understanding of the rights of persons with disabilities has become clearer over a period of time and that there has been a world-wide change in approach to issues concerning persons with disabilities. The Statement also refers the Report of the Expert Committee constituted in 2010 and the suggestions of a Draft Bill relating to Rights of Persons with Disabilities. The objects of the 2016 Act make it evident that 2016 Act is a piece of beneficial legislation for preserving the rights of persons with disabilities and empowering them with equal opportunities. If this be the case, attempting to slot the petitioner into one legislation to the exclusion of the other would be an unnaturally restrictive vision of the bridge between the two Acts and their commitment to inclusivity.

#### IV. Disability

##### a) Under the 1995 Act



13. Even if the interpretation is narrowed down to fit in the factual specifics of the present case, the petitioner would still be categorized as a person with disability under the 1995 Act. Under section 2(i) of the 1995 Act, 'disability' is defined as i) blindness; ii) low vision; iii) leprosy - cured; iv) hearing impairment; v) locomotor disability; vi) mental retardation and vii) mental illness. The definition suggests that a person is born with these disabilities. The definition section omits persons who have become disabled at a subsequent period of time or as a result of an event/accident. The petitioner falls into this class of persons since the petitioner underwent amputation of both his hands after the accident. Section 2(o) of the 1995 Act defines 'locomotor disability' as:

“2.....

*(o) “locomotor disability” means disability of the bones, joints or muscles leading to substantial restriction of the movement of the limbs or any form of cerebral palsy.”*

b) Under the 2016 Act

14. The 2016 Act on the other hand defines a 'person with disability' as :

“2.....

*(s) “person with disability” means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others;”*

The definition is an inclusive definition which takes within its fold evolving forms of disability and the facilitators for full participation in and integration in society. There is no indication of the disability being a condition from birth.

15. Moreover, in any logical view of a legislation which is intended to benefit persons with disability, a definition of disability cannot be frozen with the repealing of the 1995 Act. The whole object of the later legislation, i.e. 2016 Act, was to include broad spectrum disabilities which were not within the recognition of the framers of the earlier statute and to empower persons with disabilities to effectively integrate with society. For instance, locomotor disability under the Schedule to the 2016 Act and within the framework of 'specified disability' is a much more inclusive definition. A locomotor disability now encompasses the following:

*“A person’s inability to execute distinctive activities associated with movement of self and objects resulting from affliction of musculoskeletal or nervous system or both,  
.....”*

including five sub-clauses of loss of sensation in limbs and manifest deformity, cerebral palsy, dwarfism, muscular dystrophy and acid attack victims.”

16. In any event, the cause-effect factor cannot be discounted to limit spectrum disabilities just because the petitioner did not have 80% disability from birth.

17. Section 2(s) of the 2016 Act read with Section 2(o) of the 1995 Act hence explains the definition of disability to include substantial restriction of the movement of the limbs and does not exclude any such condition which may occur at a later stage in life by reason of an accident or otherwise.

#### V. The decision under challenge

18. The issue under consideration is whether the impugned decision of the Governing Body of the College acts as a step backwards on the path which the 1995 and the 2016 enactments sought to pave for persons with disabilities.

19. An extract of the impugned decision of the Governing Body of the College dated 10<sup>th</sup> June, 2017 is set out:

*“The Principal reported that the name of Dr. Arun Sarkar, Asst. Professor in Bengali of Kandi Raj College, Murshidabad has been recommended by the West Bengal College Service Commission vide its letter No. 1293 /Beng/CU/Recom/CSC/17 dt. 27-04-2017 for appointment to the post of Assistant Professor in Bengali as per our requisition submitted to the West Bengal College Service Commission [vide letter No. AGCBC/Secty.-WBCSC/Requisition/01/15 dated 22-07-2015 (Sl. No. 2)] against the Post Creation GO No. 597-Edn (CS) dt. 12-09-2008[1(i)] with RP No. 12 (UR : Reserve for PH Candidate) for the Teaching Staff.*

*In this context the following discussion were held in the Governing Body Meeting : The West Bengal College Service Commission (WBCSC) be requested to please reconsider their recommendation because the Physically Handicapped (PH) Candidate (Dr. Arun Sarkar) is 80% disabled (without having both hands) and cannot fulfil duties related to*

*teaching, evaluating etc. of the College as well as for University assignments. Since the department is a young one, appointment of such a candidate might seriously be detrimental to the development of the department and the reputation of the College. It would also be an injustice for the Students in future. Such recommendation be replaced by another candidate of same category for appointment of Asst. Professor in Bengali in our College.*

*After discussion, resolved unanimously that the Principal & Secretary of the Governing Body be directed not to issue the appointment letter in favour of Dr. Arun Sarkar against the recommendation letter No. 1293 / Beng/CU/Recom/CSC/17 dt. 27-04-2017 until the response received from the West Bengal College Service Commission (WBCSC). The Principal be further directed to write the Chairman & Secretary of the WBCSC requesting them for replacement of such recommendation by another one with same category.”*

V-A. The decision is summed up as follows:

(i) The petitioner is a physically handicapped candidate and is 80% disabled.

(ii) The petitioner cannot fulfill his duties related to teaching, evaluating and University assignments.

(iii) The appointment of a candidate with 80% disability will seriously prejudice the department and the reputation of the College.

(iv) Since the department is a young department, appointment of the petitioner may be detrimental to the department and would cause injustice to the students.

(v) The recommendation of the petitioner should be replaced by another candidate of the same category.

V-B. The assumptions of the Governing Body may hence be enumerated as:

(i) A person with 80% disability cannot teach, evaluate answer scripts or perform other assignments related to teaching.

(ii) A 'young' department would require a person who is either not disabled or does not suffer from 80% disability.

(iii) Appointment of a person with 80% disability would be detrimental to the development of a young department as well as to the reputation of the College.

(iv) The students of such a department would suffer if they are taught by a person with 80% disability.

(v) Appointment of such a person would cause injustice to the students.

#### VI. The impugned decision falls foul of the statutory mandate on all counts

20. The impugned decision which is under challenge is a reflection of the mindset and attitudes which the 1995 and the 2016 Act aimed to liberalise and rectify. Chapter-II of the 2016 Act relates to "Rights and Entitlements". Section 3(1) ensures to persons with disabilities the right to equality, a life with dignity and respect for his/her integrity. Section 3(1) also envisages the right to equal treatment of persons with disabilities on the same level as others in the relevant group. The entitlement to be equally treated is also found in section 3(3) which casts an obligation on the "other" not to discriminate against a person with disability on the ground of disability unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim. Section 3(2) and (5) requires the appropriate Government

to takes steps to utilize the capacity of persons with disabilities by providing a conducive environment and ensuring reasonable accommodation.

21. Chapter-III of the 2016 Act focuses on “Education” and sections 16 and 17 thereunder mandates an inclusive system of education for children with disabilities who shall be admitted to educational institutions without discrimination and be provided with equal opportunities as those of other children. Section 17(c) provides for training and employing teachers, including teachers with disability who are qualified in sign language and braille and teachers who are trained in teaching children with intellectual disability. Section 20(1) prohibits a Government establishment from discriminating against any person with disability in any matter relating to employment. Section 20(4) specifically prohibits a Government establishment from dispensing with or reducing the rank of an employee who acquires a disability during his/her service. Chapter-VI relates to Special Provisions for Persons with Benchmark Disabilities including reservation in higher educational institutions and in Government establishments (Sections 32, 34).

VII. “Dis” → “Ability”; the 2016 Act is an enabler for Persons with Disability

22. The 2016 Act is in the nature of a manifesto for ensuring the following rights to persons with disabilities :

- Equal treatment;

- Non-discrimination;
- Equal opportunity;
- Protection from cruelty and inhuman treatment;
- Protection from abuse and exploitation;
- Equal protection and safety in situations of risk, armed conflict, humanitarian emergencies and natural disasters;
- Integration with family including social integration in the larger context;
- Access to justice and electoral processes;
- Social security and adequate standard of living;
- Healthcare;
- Rehabilitation.

23. The affirmative action built into the 2016 Act is manifested in the free education for children with benchmark disabilities, reservation and incentives to the private sector for ensuring representation of a certain percentage of persons with benchmark disabilities. The objective of the Act is full participation of persons with disabilities and empowering them to realize their full potential. Section 2(c) defines “barrier” as any factor including communicational, cultural, economic and environmental impeding the full participation of persons with disability in society. The goal is hence to remove barriers in all forms which would frustrate the object of the Act.

24. The decision of the Governing Body, in essence reveals a set of prejudices which squarely fits into the definition of a “barrier” under the 2016 Act.

#### VIII. “Reasonable Accommodation”

25. The principle of “reasonable accommodation” in section 2(y) of the 2016 Act points to appropriate modifications and adjustments to ensure to persons with disability the enjoyment of rights equally with others. This expression received an educative interpretation in *Vikash Kumar vs. Union Public Service Commission; (2021) 5 SCC 370*. Justice D.Y. Chandrachud, speaking for the Bench, explained the concept of “reasonable accommodation” as capturing the positive obligation of the State and private parties to provide additional support to persons with disabilities to ensure their effective participation in society. The expression was interpreted as intrinsic to recognizing the worth of every person as an equal member of society and upholding individual dignity. In the understanding of this Court, “reasonable accommodation” is that extra effort which is part of the duty cast upon Government Bodies and private entities to create an environment which is conducive to mitigating the effect of disability in the overall mainstreaming of persons from the community. Apart from the effect of creating a physical environment of equality, “reasonable accommodation” entails fostering of a set of attitudes with reference not only to the person in the centre of the effort but also the persons surrounding the beneficiary. In other



words, the mindset of inclusion should permeate through the layers of interactions with the beneficiary at the same time. By cutting a clear wedge between the petitioner and the students of the College in terms of the future prospects of the latter, the Governing Body has in effect separated the petitioner and the group which would have facilitated the objective of the Act.

IX. The exceptions to the mandate of inclusivity

26. The Rights of Persons with Disabilities Act, 2016 contains a moderation on the discrimination against persons with disability in Section 3(3) of the Act in the following form.

*3(3). "No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim."*

27. The Government is hence given a limited leeway to make a choice in the matter of employment and selection where it can show that excluding a person with disability fits in with a stated objective. The onus of establishing the objective and justifying the exclusion is on the Act. A similar tenor can also be found in the *proviso* under Section 20(1) – Non-discrimination in employment. The *proviso* gives a window to an establishment to be exempted from the non-discrimination mandate in matters of employment with reference to the type of work carried on by the Government establishment.

IX-A. Does the impugned decision of the Governing Body align with the exceptions as pointed out above?

28. The justification is that the department is a 'young' one and that the appointment of the petitioner would be prejudicial to the development of such a department. The Governing Body also concludes that the appointment of the petitioner would affect the reputation of the College and do injustice to the future prospects of the students. The impugned decision does not discharge the onus of proving how the exclusion of the petitioner would aid in achieving the aim, legitimate or otherwise, of the College [section 3(3)] or how the petitioner will not be suitable for the work of the College (section 20, *proviso*). Moreover, the order does not clarify on the specific needs of the department calling for an Assistant Professor of only a particular profile to the exclusion of others.

29. The vagueness of the order becomes even more stark when seen against the back-story of the admitted facts. The petitioner met with the train accident in 1997 and worked as an Assistant Teacher under the PH category in Garifa High School from 1999 onwards. The petitioner joined the Kandi Raj College as an Assistant Professor in Bengali in April, 2010 upon being recommended in the PH category. There is no evidence of the petitioner being unable to fulfill his duties as a Teacher/Assistant Professor as a result of disability forced upon him. The impugned decision also does not refer to any complaint received from the students of the College where the petitioner joined in April, 2017. It is also

undisputed that the petitioner performed his duties from 1997 till June, 2017 with the use of artificial limbs. Besides, it is difficult to accept that the duties mentioned in the impugned order namely, teaching, evaluating answer-scripts and other University assignments are beyond the capabilities of a person with disability.

30. The scope of work referred to in the order is ambiguous and does not discharge the onus put on an employer in excusing itself from the mandate of the 2016 Act. In *Syed Bashir-Ud-Din Qadri vs. Nazir Ahmed Shah; (2010) 3 SCC 603*, the Supreme Court dealt with the appointment of the appellant before it on the ground that the appellant was suffering from cerebral palsy and was not fit to work as a Rehbar-a-Taleem (Teaching Guide). The Supreme Court noted with empathy that the movement of a person suffering from cerebral palsy would be jerky on account of locomotor disability and that his speech would also be somewhat impaired. The Court proceeded to hold that the appellant's services as a teaching guide could not be discontinued as long as the impairment did not interfere with the appellant efficiently discharging his duties.

#### IX-B. The impugned decision is a reflection of a mindset – barrier

31. The impugned decision is opaque, reflects an intransigent mindset and a systemic obstacle to the personal and intellectual growth of persons with disability. The decision is regressive and chains the freedoms and opportunities of the community.

32. The 2016 Act is a declaration of rights and opportunities to persons with disability. While the idea of freedom from the physical limitations germinated in the 1995 Act, in 2016 the focus shifts from protection of persons with disability to empowerment; recognition of limitations to removing barriers; the right to participation to affirmative action. In essence, the statute facilitates the movement of the community from the margins to the mainstream of opportunities. The canvas is more about effective integration of persons with disability and less about recognition of a physical condition as a limiting factor. Highlighting the difference has made way to obliterating unequal opportunities as a result of the difference.

X. Is the impugned decision amenable to judicial scrutiny?

33. The respondent College objects to any relief being granted on the limited scope of judicial review against an administrative decision. In *Dwarka Nath vs. Income Tax Officer; AIR 1966 SC 81*, Justice K. Subba Rao, speaking for the Bench, referred to the principles succinctly stated in Halsbury's Law of England, 3<sup>rd</sup> Edn., Vol 11 as an administrative body being under a duty to act judicially in ascertaining the facts of law notwithstanding that its proceedings have none of the formalities of a court of law. The Supreme Court also noted that even where a decision of an administrative body is actuated in whole or in part by questions of policy, it may be under a duty to act judicially in the course of arriving at a decision. Relying on the aforesaid decision, this Court is of the view

that the acts impugned may take on the character of quasi-judicial acts where the administrative body has a duty to act judicially.

34. In the present case, the Governing Body of the College had a duty to consider the import of the provisions of the 1995 Act and the 2016 Act. Both these Acts imposed a duty on the Governing Body to act in terms of the mandate of the law which the Governing Body failed to do. In *East Coast Railway vs. Mahadev Appa Rao; (2010) 7 SCC 678*, the Supreme Court held that application of mind is a threshold requirement for making a valid order. It was further held that the authority making the order must be alive to the materials placed before it and cannot act under an impulse. This decision fits the fact scenario before this Court since there is no evidence of the presence of any material before the Governing Body justifying the comments on the petitioner's abilities to perform his duties.

35. There cannot be any denial of the fact that the Governing Body of the College had a duty to act responsibly with sensitivity, having regard to the statutory position governing persons with disabilities. It is all the more surprising that the Governing Body directed the Chairman and Secretary of the College Service Commission to replace the recommendation of the petitioner "*by another one with same category*" (the words are further indicative of the mindset of the Governing Body). The impugned decision also gives rise to serious civil consequences on the rights of the petitioner in specific and persons with disabilities in general. This Court finds the impugned decision to be denounce-worthy

having regard to the provisions of the 1995 and 2016 Acts and being in direct contradiction with the objectives sought to be achieved by the statutes. The decision deserves to be quashed and set aside.

36. While the Court may not appropriate unto itself the power of recommending the petitioner for appointment, the Court deems it fit to direct the Governing Body to arrive at a fresh consideration of the facts before it and revisit the issue with due regard to the statutory mandate.

37. WPA 6043 of 2020 is accordingly partially allowed by quashing the resolution taken by the Governing Body of the College on 10.06.2017 and the Governing Body is directed to come to a fresh decision within a period of 8 weeks from the date of communication of this order.

38. The writ petition along with all connected applications is disposed of accordingly.

Urgent Photostat certified copies of this Judgment, if applied for, be supplied to the parties upon fulfillment of requisite formalities.

**(Moushumi Bhattacharya, J.)**