

03 29.03.
2022
Ct. No. 04

Ab

MAT 447 of 2022
With
IA No. CAN 1 of 2022

Dr. Santi Prasad Sinha
Vs.
Md. Abdul Gani Ansari and others.

Mr. Biswaroop Bhattacharya,
Mr. Dipayan Kundu,
Ms. Mayuri Ghosh.
... for the appellant.

Mr. Firdous Samim,
Ms. Gopa Biswas,
Ms. Gargi Banerjee.
... for the respondent no. 1.

Mr. Raja Saha,
Mr. Shamim ul Bari.
... for the State.

Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey.
... for the WBCSSC.

Ms. Koyeli Bhattacharya.
... for WBBSE.

MR. Subhankar Nag,
Mr. Jasojeet Mukherjee.
... for the respondent no. 8, 10 & 11.

Mr. Kanak Kiran Bandyopadhyay.
... for the respondent no. 15.

The impugned order would reveal that the Court while invoking the provision under Section 165 of the Evidence Act noticed certain incriminating materials, which created an impression that there has been illegal recommendation in favour of the candidates, who secured lesser marks than the other deserving candidates and the appointments have been made on the

basis thereof. The Single Bench further found that the appellant, who was an Advisor of the School Service Commission and the Convenor of the Five-Member Committee constituted by the Education Department, is required to disclose the affidavit of assets.

Though the order is interlocutory in nature and passed in furtherance of the proceeding but the Court must be careful and cautious when the direction is passed to disclose the assets in the form of affidavit so that it may not be disclosed or divulged to the litigating parties. Securing an affidavit of assets is for specified purposes and dependent upon the consequences and circumstances perceived in course of the proceeding but should not be used as pleading, which the parties have exchanged in course of the said proceeding.

Certain observations have been made in the impugned order against the appellant, which should not be construed as final but tentative in nature and, therefore, shall not stand in the way at the time of final disposal of the proceeding.

Though a prima facie finding has been made that illegal appointments have been surfaced in course of the proceeding and, therefore, the technicalities should not be projected as a hurdle or obstacle in pursuit of securing the justice. The finding is made on the basis of the perceived notion, which is always tentative in nature and for carriage of the proceeding and, therefore, there cannot be any apprehension in the mind of the litigants that such finding has a larger impact at the time of final hearing of the proceeding.

Taking into account the thought process behind the direction passed upon the appellant to file affidavit of assets, we do not find any element warranting interference at this stage. However, we make it clear that such affidavit of assets shall remain in a sealed cover and

shall not be divulged or circulated to the litigating parties or the Counsels and shall be appropriately dealt with at the time of final decision to be taken on the issues involved therein.

The time for filing of affidavit of assets is extended by five days from date.

On the basis of the above findings, the appeal and the connected application are disposed of.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)