

1-3 24.11.  
2021

Ct. No. 04

Ab

**MAT 1254 of 2021  
CAN 1 of 2021**

**West Bengal Board of Secondary  
Education and another.  
Vs.  
Sandeep Prasad and others.**

**With**

**MAT 1255 of 2021  
CAN 1 of 2021**

**West Bengal Central School Service  
Commission and others.  
Vs.  
Sandeep Prasad and others.**

**With**

**MAT 1256 of 2021  
CAN 1 of 2021**

**State of West Bengal.  
Vs.  
Sandeep Prasad and others.**

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**Mr. Santanu Mitra,  
Mr. Subhabrata Das.  
... for the appellants in MAT 1254 of 2021.**

**Mr. Kishore Datta,  
Dr. Sutanu Kumar Patra,  
Ms. Supriya Dubey,  
Ms. Debalina Chakraborty.  
... for the appellants in MAT 1255 of 2021.**

**Mr. S. N. Mookherjee, Ld. AG,  
Mr. Anirban Ray,  
Mr. Samrat Sen,  
Mr. Bhaskar Prasad Vaisya,  
Mr. Jaydip Banerjee,  
Mr. Ayan Chakraborty,  
Mr. D. N. Mukherjee.  
... for the appellant in MAT 1256 of 2021 &  
for the State in MAT 1254 of 2021 &  
MAT 1255 of 2021.**

**Mr. Bikash Ranjan Bhattacharya,  
Mr. Sudipta Dasgupta,  
Mr. Bikram Banerjee,  
Mr. Arkadeb Biswas,**

**Mr. Arka Nandi,  
Mr. Sutirtha Nayek.  
... for the respondents.**

**Mr. Saktinath Mukherjee,  
Mr. Arindam Banerjee,  
Mr. Subhankar Nag,  
Mr. Jasojeet Mukherjee.  
... for the intervenor.**

**Re: CAN 1 of 2021.**

When the writ applications were filed, the seriousness in the matter could not be visualized until the affidavits were invited from the West Bengal School Service Commission and the West Bengal Board of Secondary Education. The Commission took a stand that no recommendation was made after the expiration of the panel prepared for giving appointments to the post of Group-D in the Education Department, but the stand of the Board was diametrically opposite to the stand of the Commission, as they unequivocally stated that they received the recommendation from the Commission from the said panel and, in fact, the appointments were made on such recommendation.

Because of the divergent/contradictory stand taken by the Commission as well as the Board, the orders came to be passed by the learned Single Judge for disclosure of the names and addresses of the candidates whose names were recommended by the Commission after the life span of the panel. However, in course of hearing held on 17<sup>th</sup> November 2021, Mr. Bikash Ranjan Bhattacharya, learned Senior Advocate appearing on behalf of the writ petitioners, apprised the Court that they have collected 500 appointment letters and seek leave of the Court to place those before the Court to contradict the stand of the Commission. The matter was thereafter listed on the next date and

ultimately by the impugned order, the Court directed the enquiry to be conducted by an independent agency i.e. Central Bureau of Investigation.

By the impugned order, the Single Bench has observed that the said independent agency shall make an enquiry (not an investigation) in order to identify the miscreants in this matter through whom some letters of recommendation were issued and, in fact, the Board acted thereupon. It is further observed that the enquiry by such independent agency is inevitable, as it is a primary duty of the Court to instill a confidence of the public at large. Neither there is any pleading nor any relief of such kind was sought for by the writ petitioners in the writ applications, which came before the Single Bench.

In course of hearing the suggestion came from different corners including Mr. Bhattacharya representing the writ petitioners that there must be a full-fledged enquiry to be conducted in order to unearth the truth and foist the responsibility on the person responsible for such illegal practice.

An argument was advanced relying on a Supreme Court decision that directing an enquiry by an independent agency i.e. Central Bureau of Investigation is a drastic measure, which should be resorted only in case of rare and exceptional cases.

The order is bereft of any such finding except that the appointment in the Education Department and the administration run by the police are part of the State and it is, therefore, necessary that an independent agency should enquire into the matter.

We find that a prima facie case is made out by the appellants.

The impugned order, so far as it relates to the enquiry by the Central Bureau of Investigation is

concerned, is stayed for a period of three weeks from date or until further order/orders of this Court, whichever is earlier.

However, we cannot overlook the apprehension shown by Mr. Bhattacharya that there may be a possibility of destruction or tampering of the important materials, which may ultimately hamper the impartial and fair investigation/enquiry.

We, therefore, direct the Commission as well as the Board to submit all relevant documents, which has been directed by the Single Bench to be handed over to the Central Bureau of Investigation, in a sealed cover before this Court in course of this day.

The Registrar General of this Court is directed to keep the said documents in its safe custody and shall not permit anybody to have an access thereto unless directed by this Court.

Let these matters be listed on 29<sup>th</sup> November 2021 as "First Item".

Parties are at liberty to exchange affidavits, if they so desire.

**(Harish Tandon, J.)**

**(Rabindranath Samanta, J.)**