

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2022
(@ Special Leave Petition (C) No.4896/2022)

MD. NURUZZAMAN

...APPELLANT

VERSUS

THE STATE OF WEST BENGAL & ORS.

....RESPONDENTS

O R D E R

Leave granted.

Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Calcutta in MAT No.394 of 2021 by which the Division Bench of the High Court has quashed and set aside the order passed by the learned Single Judge and remanded the matter back to the learned Single Judge, the original writ petitioner has preferred the present appeal.

The learned Single Judge allowed the writ petition preferred by the appellant herein/original writ petitioner and directed that the District Magistrate, Pachim Medinipur shall dis-engage respondent nos. 5 and 6 herein, namely, Babun Kumar Maity and Loknath Pramanik as they belong to OBC (B) category and were empanelled in OBC (A) posts and accordingly appointed. The learned Single Judge also directed that the appellant herein be appointed in their place. By the impugned judgment and

contd..

order, the Division Bench of the High Court has set aside the said order and has remanded the matter. It is not the case on behalf of respondent nos. 5 and 6 that they do not belong to OBC (B) category. It is also not in dispute that the post was required to be filled in OBC (A) category. Even the State also admitted and conceded before the learned Single Judge that the candidates belonging to OBC (B) category were appointed instead of OBC (A) category.

In that view of the matter, there was no reason for the Division Bench of the High Court to set aside the order passed by the learned Single Judge and remand the matter back. The learned Single Judge as such did not commit any error in setting aside the appointment of respondent nos. 5 and 6 herein. Therefore, the impugned judgment and order passed by the Division Bench of the High Court quashing and setting aside the order passed by the learned Single Judge and to remand the matter to learned Single for fresh consideration is unsustainable. However, the Division Bench of the High Court is right in observing that even the original appellant herein could not have been directed to be appointed.

In view of the above and for the reasons stated above, the present appeal succeeds. The impugned judgment and order passed by the Division Bench of the High Court is hereby quashed and set aside and the order passed by

contd..

the learned Single Judge is restored. It is made clear that the present order is only qua respondent nos.5 and 6 herein, namely, Babun Kumar Maity and Loknath Pramanik. It is further observed that it will be open for respondent nos.5 and 6 to make a representation to the appropriate Authority either to continue them and/or accommodate them on any vacant post without disturbing the others either belonging to OBC (A) category and/or OBC (B) category if permissible under the law.

The Appeal is accordingly allowed to the aforesaid extent. No costs.

.....J .
[M.R. SHAH]

.....J .
[B.V. NAGARATHNA]

NEW DELHI
MAY 09, 2022

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No. 4896/2022

(Arising out of impugned final judgment and order dated 17-12-2021 in MAT No. 394/2021 passed by the High Court at Calcutta)

MD. NURUZZAMAN

Petitioner(s)

VERSUS

THE STATE OF WEST BENGAL & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.39846/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 09-05-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.R. SHAH

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Abhijit Kumar Chattopadhyay, Adv.
Ms. Arina Bhattacharjee, Adv.
Mr. Vipin Kumar Jai, AOR

For Respondent(s) Mr. Rabilal Maitra, Sr. Adv.
Mr. Gangadhar Das, Adv.
Mr. Rupesh Kumar, AOR
Ms. Neelam Sharma, Adv.
Ms. Pankhuri Shrivastava, Adv.

Mr. Partha Sarathi Bhattacharyya, Adv.
Arunava Maiti, Adv.
Mr. Arvind Gupta, AOR

Ms. Madhumita Bhattacharjee, Adv.
Mr. Anant, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s) shall stand disposed of.

(NEETU SACHDEVA)
COURT MASTER (SH)

(NISHA TRIPATHI)
ASSISTANT REGISTRAR
(signed order is placed on the file)