

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4800/2025

STATE OF WEST BENGAL

APPELLANT(S)

VERSUS

BAISHAKHI BHATTACHARYYA
(CHATTERJEE) & ORS.

RESPONDENT(S)

O R D E R

In paragraph 52 of our judgment dated 03.04.2025, it was held that the issue with regard to the direction for investigation by the Central Bureau of Investigation¹ *vis-à-vis* the decision to create supernumerary posts, would be dealt with separately.

We have, accordingly, heard the learned counsel for the parties.

In particular, our attention was drawn to paragraphs 257 and 265 of the impugned judgment passed by the High Court.

We have considered the observations made in the aforesaid paragraphs. On a pointed question, it is accepted that in the writ petitions, no specific prayer was made challenging the Cabinet decision, consequent to which order dated 19.05.2022 was issued by the Government of West Bengal after approval by the Governor. No prayer was made that this order should be made the subject matter of any investigation by the police or

1 For short, "CBI."

the CBI.

Perusal of the Note dated 05.05.2022, which makes out a case for the Cabinet decision, reflects that it was recorded that the power under Section 19 of the West Bengal School Service Commission Act, 1997, may be used in respect of wait-listed candidates, but the same shall be subject to the outcome of pending litigation(s) before the High Court at Calcutta.

The case was taken up by the Cabinet and the decision was taken at the time, as accepted, when there was pending litigation in the High Court and finding the tainted candidates, by thorough examination, was not possible.

It is pertinent to note that while making out the case for the Cabinet decision on 05.05.2022, the Note specifically mentions the view expressed by the West Bengal Central School Service Commission, Kolkata, that there were wrongly appointed candidates, by way of rank jumping, etc., and nothing was hidden.

Having regard to the aforesaid discussion, we are of the view that the High Court was not justified in referring the issue of creation of supernumerary posts pursuant to the Cabinet decision for investigation by the CBI.

It may be relevant to take note of clause (2) to Article 74 and clause (3) to Article 163 of the Constitution of India, which specifically state that the question whether any, and if so what advice was tendered by the Council of Ministers to aid and advise the President or tendered by the Ministers of the

Cabinet to the Governor, shall not be inquired into in any court.

The aforesaid direction is, therefore, set aside and quashed.

We, however, clarify that our observations and directions given in the present order are limited to the extent of the directions for investigation into creation of supernumerary posts, and do not, in any way, impinge or reflect upon the investigation and the chargesheets filed by the CBI on other aspects.

The issue/matter stands disposed of in the above terms.

Pending application(s), if any, shall stand disposed of.

.....CJI.
(SANJIV KHANNA)

.....J.
(SANJAY KUMAR)

NEW DELHI
APRIL 08, 2025.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSCivil Appeal No. 4800/2025

STATE OF WEST BENGAL

Appellant(s)

VERSUS

BAISHAKHI BHATTACHARYYA (CHATTERJEE) & ORS.

Respondent(s)

Date : 08-04-2025 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJAY KUMAR

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Mr. Kunal Malik, AOR
Mr. Manish Awasthi, Adv.

Ms. Karuna Nundy, Sr. Adv. **

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

The issue/matter is disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(BABITA PANDEY)
AR-CUM-PS

(R.S. NARAYANAN)
ASSISTANT REGISTRAR

(signed order is placed on the file)

** No online appearance/physical appearance slip received.