

ITEM NO.801

COURT NO.1

SECTION XVI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).38262/2022

(Arising out of impugned final judgment and order dated 24-11-2022 in MAT No. 1853/2022 passed by the High Court at Calcutta)

THE STATE OF WEST BENGAL

Petitioner(s)

VERSUS

SANDEEP PRASAD & ORS.

Respondent(s)

Date : 25-11-2022 This petition was mentioned today.

CORAM :

HON'BLE THE CHIEF JUSTICE
 HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s) Dr. Abhishek Manu Singhvi, Sr. Adv.(mentioned by)
 Mr. Amit Bhandari, Adv.
 Mr. Udayaditya Banerjee, AOR

For Respondent(s)

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

- 1 Upon being mentioned, taken on board.
- 2 Dr Abhishek Manu Singhvi, senior counsel appearing on behalf of the petitioner, has adverted to Annexure P-4 to the Special Leave Petition which is an application filed by the West Bengal Central School Service Commission¹ before the High Court at Calcutta in CAN No 6 of 2022 in WPA No 12266 of 2021. Paragraphs 5 to 8 of the application are extracted below:

“5. The candidates who have been appointed, have been employed for the last 2 to 4 years and no complaints have been made against any of them in the performance of their duties.

¹“Commission”

6. It is thus submitted that if any other illegality concerning the appointment of Group-D staff is identified, it is humbly proposed that apart from giving recommendations and appointment to genuine candidates as observed by this Hon'ble Court by its order dated 21 September 2022, supernumerary posts be also created to accommodate those whose appointments are subsequently found to be invalid. Such proposal will result in no loss of jobs and enable such appointees to have means of livelihood. However, in the event of such proposal being accepted, appropriate directions be given that such persons do not have seniority over those eligible for appointment.
7. However, it is humbly submitted that in the event the above proposal is not accepted, this Hon'ble Court may cancel such appointments as indicated by this Hon'ble Court earlier.
8. In the above facts, it is submitted that appropriate directions may be passed by this Hon'ble Court such that necessary steps are taken by the respondents, to enable the respondents to give effect to the appointment to such genuine/eligible candidates."

3 The reliefs which were sought in the application before the High Court were as follows:

- "a. Appropriate directions be given as stated in paragraph 6 above, on such terms and conditions as this Hon'ble Court may deem fit and proper.
- b. In the alternative directions may be given as prayed for in paragraph 7 and 8 above."

4 On 23 November 2022, the Single Judge of the High Court held, *prima facie*, that the application filed by the Commission is a "benami application". The Single Judge proceeded to enquire of the counsel as to whether or not he has drafted the application. Though a request appears to have been made before the High Court to withdraw the application, the High Court declined to allow the withdrawal on the ground that it would enquire into "who are pulling the strings from behind such application". The proceedings were listed thereafter at 3 pm on the same day. At 3 pm on the same day, the files were produced before the

High Court in pursuance of its earlier directions at which point of time the Single Judge directed the CBI to commence an enquiry in regard to the source from which the application originated. The proceedings were thereafter listed on 24 November 2022 at 10.30 am on which date the Principal Secretary to the Government of West Bengal was directed to appear personally to answer some of the questions which the Single Judge intended to address since "the filing of such an application is clearly not the brain child of the Commission".

- 5 The orders of the Single Judge were called into question before the Division Bench in MAT 1852 of 2022 and MAT 1853 of 2022. The Division Bench dismissed the appeals.
- 6 This Court is apprised that the Single Judge is continuing to hear the proceedings.
- 7 Issue notice, returnable in three weeks.
- 8 Dasti, in addition, is permitted.
- 9 Pending further orders, the orders of the Single Judge dated 23 November 2022 (Annexures P-6 and P-7) and the order of the Division Bench dated 24 November 2022 shall remain stayed. No further consequential steps shall be taken in pursuance of the impugned orders of the Single Judge which have been affirmed by the Division Bench. The direction to the CBI to investigate at whose behest the interim application was filed before the Single Judge shall accordingly remain stayed.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR