

Select the following parts of the judgment

Petitioner's Arguments

Respondent's Arguments

Analysis of the law

Precedent Analysis

Conclusion

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Calcutta High Court (Appellate Side)

(Aatmadeep vs State Of West Bengal & Ors.) on 21 January, 2025

1&2
21.01.2025
Ct. No. 11
Jayanta

WPA (P) 387 of 2024
(AATMADEEP Vs. State of West Bengal & Ors.)

with

WPA (P) 430 of 2024
(Amal Chandra Das Vs. State of West Bengal & Ors.)

(Assigned)

Mr. Subir Sanyal, Sr. Adv.
Mr. Supratic Roy
Mr. Samir Pal
Ms. Debjani Ray
Mr. Bikram Banerjee
Mr. Sudipta Dasgupta
Ms. Sinjini Chakraborti
Mr. Baibhav Roy

.... For the petitioners
(in both the matters)

Mr. Kishore Dutta, Ld. Adv. Gen.
Mr. Tapan Kumar Mukherjee, AGP
Ms. Sangeeta Roy

..... For the State respondents

(in both the writ petitions) Mr. Soumya Majumder Ms. Sanjukta Dutta For the Jadavpur University Ms. Sumita Shaw Mr. Sougata Mitra Mr. Soumen Chatterjee For the Sidho Kanho Birsha University Mr. Niladri Bhattacharjee Ms. Deblina Chattaraj For the respondent no. 8 [in WPA (P) 387 of 2024] Mr. Tapan Kumar Mukherjee, learned Additional Government Pleader appearing for the State has filed an affidavit, affirmed ON 21st January 2025 by one Sri Abjijit Mukherjee, Additional Secretary, Backward Classes Welfare Department, Government of West Bengal.

Paragraph 3 as a whole and paragraph 7 of the said affidavit were set out herein below:

3. Before dealing with the allegations made in the said application I submit that the said writ application before this Hon'ble Court by way of Public Interest Litigation (PIL) as per the Rules relating to Public Interest Litigation (PIL) has not been followed and as such the same may not be entertained as it is premature.

b) It is submitted that for execution of the order dated 22.05.2024 in WPA 8844 of 2020 passed by this Hon'ble Court is not maintainable since against the said order dated 22.05.2024 a Special



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Leave Petition being SLP (C) 017751-01755 of 2024 is still pending for hearing before the Hon'ble Supreme Court of India and this court cannot exercise the power under [Article 136](#) of the Constitution of India which is sought to be prayed for in the said application. When the Higher Court has been approached and the matter is yet to be decided no order could be passed in the present application. This writ application is premature at this stage.

c) There is no prayer for leave Under [Order 8 Rule 8 of the Code of Civil Procedure](#), 1908 as large number of persons will be affected, if any order is passed against them.

d) The writ application is not maintainable as the statute namely the Act of 2013 was known to the petitioners at the time of filing of Writ Application, 2020. The present writ application is barred by res judicata under [Section 11 Explanation V & VI of Code of Civil Procedure](#), 1908. The persons and students who have been declared Schedule Caste and Schedule Tribes under the W.B.S.C. & S.T. (Identification) Act, 1994 and 1993 have not been made parties whose rights have been protected under the Constitution of India have not been parties. The Other Backward Classes have been declared following the Judgment of Supreme Court AIR 1993 SC 444 Indira Waha-Vs.-Union of India. The State Government has not exceeded not more than 50% for reserved category. The students of West Bengal will lose their academic year of the interim order is granted by this Hon'ble Court or any order passed by this Hon'ble Court.

e) Further it is submitted that the order passed by this Hon'ble Court on 22.05.2024 has been duly communicated to the Department who are the appointing authority by the State Government under the Rules framed under [Article 309](#) of the Constitution of India.

f) However, to pay respect to the order of this Hon'ble Court's order all appointments have been stopped or deferred till decision of the Supreme Court in the SLP filed by the State.

7. The respondents herein state that the respondents have not undergone any recruitment process subsequent to the judgment passed by the Hon'ble Division Bench on 22.05.2024 and steps have been taken not to proceed with the selection process as per order of this Hon'ble Court.

This deponent shall in no way violate the judgment of the Hon'ble High Court, Calcutta dated 22.05.2024 in W.P.A. (P) No. 60 of 2011 and reserved the right of the State in the pending SLP before the Hon'ble Supreme Court.

It is sincerely hoped that all departments under the control of the State Government abide by the said judgment of this Court dated 22nd May, 2024.

The learned Counsel for the petitioner in WPA (P) 387 of 2024 has submitted that the Joint Entrance Board of the State and the High Court Administration is proceeding to recruit persons under the OBC, A and OBC, B categories struck down by this order dated 22nd May, 2024.

Since the two bodies are not parties to the proceedings, appropriate steps may be taken by the petitioners in this regard.

List the matter for further consideration on 6 th March, 2025, as fixed at 3.15 p.m. (Rajasekhar Mantha, J.) (Tapabrata Chakraborty, J.)



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