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Amal Chandra Das vs State Of West Bengal & Ors on 30 September, 2024

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Calcutta High Court (Appellete Side)

Amal Chandra Das vs State Of West Bengal & Ors on 30 September, 2024

30.09.2024
Item No.02
Court No.11
Avijit Mitra

WPA (P) 430 of 2024 (Assigned)

In re: An application for Public Interest Litigation;
And
Amal Chandra Das
- versus -
State of West Bengal & ors.

Mr. S.Gurukrishna Kumar, Sr. Adv.,
Mr. Samir Pal,
Ms. Debjani Ray,
Mr. Bikram Banerjee,
Mr. Sudipta Dasgupta,
Mr. Arijit Bakshi,
Ms. Sinjini Chakraborty,
Mr. Baibhav Roy
....for the petitioner

Mr. Biswabrata Basu Mallick, Ld. A.G.P.,
Ms. Parna Roychowdhury,
Ms. Sujata Mukherjee
....for the State respondents

Mr. Soumya Majumder,
Ms. Sanjukta Dutta
...for the Jadavpur University

1. Challenge in the present Public Interest Litigation is, inter alia, to Sections 2(i) and 3(1)(c) and 3(1)(d) of the West Bengal State Higher Educational Institutions (Reservations in Admissions) Act, 2013. Rules 4(1) and Rule 6(1) and Rule 8 of the Rules of 2013 framed under the aforesaid Act are also under challenge.

2. It is submitted by the counsel for the petitioner that the definition of OBC in Section 2(h) and the definition of OBC-A and OBC-B in Section 2(i) of the Act of 2013 are mutatis mutandis similar to the definition of Other Backward Caste and OBC-A and OBC-B under the

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West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Act, 2012 that was struck down hitherto by this Court by its judgment dated 22 nd May

2024 delivered in WPA (P) 60 of 2011 in the case of Amal Chandra Das-versus-State of West Bengal & others.

3. It is further submitted that these very same classes borrowed from the 2012 Act that are being treated as OBC, OBC-A and OBC-B under the Act of 2013 for the purpose of reservations in admissions in the universities of the State.

4. At the interim stage, it is prayed that there should be stay of any admission in the State by any university of any person belonging to the classes of OBC, OBC-A and OBC-B struck down under the aforesaid judgment dated 22nd May, 2024 (supra).

5. Learned counsel for the Jadavpur University submits that the classes defined as OBC-A and OBC-B have been recommended by the Backward Classes Commission of the State.

6. This appears to be ex facie illegal as Section 2(h) and Section 2(i) of the Act of 2013 require the recommendation of the Commission constituted under the West Bengal Commission for Backward Classes Act, 1993. The only inference possible is that the State has recommended the same classes as OBC, OBC-A and OBC-

B, from the 2012 Act, that have been struck down by this Court in its judgment dated 22nd May 2024 (supra).

7. There is prima facie case made out by the petitioner.

8. Learned counsel for the State submits that the decision of this Court dated 22 nd May, 2024 is pending challenge before the Supreme Court. There is, however, no stay of the judgment till date.

9. This Court is, therefore, surprised at the blatant violation of this Court's order by the State and the Universities in allowing admissions based on the reservations to the classes already struck down by this Court in its order dated 22nd May, 2024.

10. The State appears to acting clearly contumacious and is seeking to disregard its own SLP

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before the Supreme Court by openly defying the order dated 22nd May, 2024.

11. The admissions given by the universities would create a false hope and expectation and semblance of rights amongst such students.

12. This Court is of a prima facie view that the Universities may be liable to compensate each of such affected student at least to the extent of Rs. 5 lakh for admission to them despite knowing fully well that they do not enjoy reservation in the OBC, OBC-A and OBC-B categories.

13. List the matter for further consideration on 7 th October, 2024, at 2.00 p.m.

(Rajasekhar Mantha, J.) (Tapabrata Chakraborty, J.)

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