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The State Of West Bengal vs Supriya Mondal & Ors on 2 July, 2025

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Calcutta High Court (Appellete Side)

The State Of West Bengal vs Supriya Mondal & Ors on 2 July, 2025

Author: Soumen Sen

Bench: Soumen Sen

9_10
02.7.2025
Ct. No. 8
SB

MAT 943 of 2025
CAN 1 of 2025 (section 5)
CAN 2 of 2025 (stay)
The State of West Bengal
Vs.
Supriya Mondal & Ors.

with

MAT 955 of 2025
CAN 1 of 2025 (section 5)
CAN 2 of 2025 (stay)

Mr. Sirsanya Bandopadhyay, Sr. Standing Counsel
Mr. Sandip Das Gupta
Mr. Debayan Sen
Mr. Mahima Cholera
Mr. Niket Ojha... for the appellant / State (in MAT 943/2025)

Mr. Kalyan Kumar Bandopadhyay, Sr. Adv.
Mr. Amitav Choudhury
Mr. Nirmalya Roy
Mr. Rahul Kumar Singh ... for respondent no. 29 / WBJEEB

(in MAT 943/2025)
... for appellants (in MAT 955/2025)
Mr. R. Chowdhury
Mr. D. N. Maiti
Mr. A. Santra
... for respondent nos. 27-28 / WBUHS(in MAT 943/2025)

Mr. Raghunath Chakraborty
Mr. Supratick Syamal
Mr. Saikat Thakurata
Ms. Mohana Das
.... For the petitioners / respondents(in M943/2025)
(in MAT 955/2025)

Mr. Biswabrata Basu Mallick, Ld. AGP
Mr. K.M. Hossain ... for the State (in MAT 955/2025)

1.

MAT 943 of 2025
CAN 1 of 2025 (section 5)

1. There is a delay of 1 day in filing the appeal.

2. We are satisfied with the explanation offered for not being able to file the appeal within the period of limitation. The delay

of 1 day is condoned.

3. Accordingly, the application for condonation of delay is allowed and disposed of.

MAT 955 of 2025
CAN 1 of 2025 (section 5)

4. There is a delay of 1 day in filing the appeal.

5. We are satisfied with the explanation offered for not being able to file the appeal within the period of limitation. The delay of 1 day is condoned.

6. Accordingly, the application for condonation of delay is allowed and disposed of.

7. The appeals are arising out of an order passed by the learned Single Judge on 21.5.2025 in which in disposing of the writ application, the learned Single Judge has passed the following order to complete the admission process.

"(a)The West Bengal Joint Entrance Examination Board shall publish a notification on its web portal inviting all O.B.C. (A) and O.B.C. (B) candidates to disclose their caste identity by uploading a copy of their O.B.C. caste certificates. Additionally, the candidates shall be notified by SMS sent to their disclosed mobile numbers in this regard.

(b) The Joint Entrance Board shall recast the panel, excluding the candidates belonging to the O.B.C. (A) or O.B.C. (B) categories and including the O.B.C. candidates who have been included in the list of 66 O.B.C. classes by the Backward Class Department of the State prior to 2010.

(c) The extent of O.B.C. reservations shall be 7%.

(d) Let such an exercise be completed by the West Bengal Joint Entrance Examination Board within a period of forty (40) days from the date.

(e) Immediately after the recast, the merit list shall be forwarded to the West Bengal University of Health Sciences. The University shall accordingly complete the counselling process within a period of one month thereafter.

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(f) To avoid any future complications, a further direction is passed upon the respondents not to advertise or initiate any admission process inviting applications from O.B.C. (A) and O.B.C. (B) candidates. The advertisement should only be published for O.B.C. candidates belonging to the aforesaid 66 classes, providing for 7% reservation."

8. Mr. Kalyan Bandyopadhyay, learned senior counsel appearing on behalf of the appellant has submitted that the Joint Entrance Board is facing difficulty in implementing the direction in paragraphs (b), (C) & (i) as the understanding of the appellant of paragraph 361(K) is that it would protect the candidates from the 77 classes and 37 classes (added in the exercise of Section 16) that was struck down as well as 35 classes. It preserves the right of three categories of candidates which inter alia include candidates who "have already availed the benefit of reservation." For the sake of brevity the said sub paragraph is reproduced below:

"361 (k) The services of citizens from the 77 classes and 37 classes (added in the exercise of Section 16) struck down

above, who are already in the service of the State, or have already availed the benefit of reservation or have succeded in any selection process in the State, shall not be affected by the reason of this judgement."

9. Mr. Bandyopadhyay has also drawn our attention to 361(i) in which 35 classes for the purpose of reservation under 16(4) have been quashed however with prospective effect

10. It is thus, urged that the candidates who have applied with the caste certificates before they were declared to be invalid by reason of quashing of Section 16 would come within the purview of the phrase "have already availed the benefit of reservation."

11. It is further submitted that in the event the Hon'ble Division Bench judgement in WPO 60 of 2011 (Amal Chandra Das vs. The State of West Bengal & Ors.) decided on 09.5.2024 is implemented then the extent of OBC reservation shall be 17% and not 7% having regard to the prospective effect given to the said judgement and also taking into consideration that the candidates who were eligible on the date when the

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advertisement was issued would be eligible notwithstanding to striking down of Section 16 in view of the phrase "have already availed the benefit of reservation". .

12. Mr. Bandyopadhyay, has also submitted that whether it was open for the learned Single Judge to pass a direction as reflected from sub-paragraph (f) having regard to the judgement passed by the Hon'ble Division Bench in Amal Chandra Das (supra) requires consideration.

13. The argument is essentially with regard to the interpretation of the phrase "have already availed the benefit of reservation".

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14. In view of the submission made by Mr. Bandyopadhyay, we are of the view that judicial propriety demands that the same may be considered by the Hon'ble Division Bench that have decided the matter.

15. In view thereof, the appeals and the stay petitions are released from out list. The matter be placed before Hon'ble the Chief Justice for appropriate direction.

(Soumen Sen, J.)

(Smita Das De, J)

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