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Yasin Chowdhury vs State Of West Bengal & Ors on 9 July, 2026

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Calcutta High Court (Appellete Side)

Yasin Chowdhury vs State Of West Bengal & Ors on 9 July, 2026

09.07.2026
Sl. No.2 (S/L)
Ct. No. 14
gd

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA/14698/2026

Yasin Chowdhury
versus
State of West Bengal & Ors.

Ms. Jhuma Sen
Mr. Yuvraj Chatterjee
Mr. Samsul Laskar
...for the Petitioner.
Mr. D. N. Roy, Ld. G.P.
Mr. Lokenath Chatterjee
Mr. Brijendra Pratap Singh
Mr. Asit Kumar De
...for the State.
Mr. Subhrangsu Panda
Ms. Ina Bhattacharyya
Ms. Mithu Singha Mahapatra
...for West Bengal College Service Commission.

1. By the present writ petition the petitioner has sought for withdrawal and/or cancellation of (a) Notification No.944-BCW/MR-23/2026 dated 18th May, 2026; (b) Notification No.945-BCW/MR-23/2026 dated 18 th May, 2026; (c) Notification tiled Edit Option for modification/correction of Online application for the post of Assistant Professor (Advertisement No.1 of 2026) dated 12th June, 2026 of West Bengal College Service Commission and (d) Notification dated 20 th June, 2026 regarding automatic re-classification to General category issued by West Bengal College Service Commission (hereinafter referred to as the 'Commission').

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2. The petitioner contends that he submitted his application for the post of Assistant Professor pursuant to notification issued by Commission dated

26th February, 2026 under OBC-A category. Subsequently the Commission issued a notification on 12th June, 2026 asking the candidates to correct their OBC category as per Government Order No. 945-BCW/MR-23/2026 dated 18th May, 2026 and also indicated that failure to provide the correct category information may result in cancellation or rejection of the application. Another notification was issued on 20th June, 2026 by the Secretary of the Commission indicating that non-compliance or invalid certificates will result in automatic re-classification to General Category. Being aggrieved by such notifications the petitioner has preferred the present writ petition.

3. Ms. Jhuma Sen, learned advocate representing the petitioner submits that the writ petitioner applied for the post of Assistant Professor pursuant to a notification dated 26th February, 2026 as OBC-A candidate. However, in the midway the State Government has issued notification being no.945-BCW/MR-23/2026 dated 18th May, 2026 wherein the petitioner's caste has not been included under OBC-A Category. The Commission has issued notification dated 12th June, 2026 asking the candidates to correct their category as per the Government Order

dated 18th May, 2026 and giving a rider that failure to provide the correct category information may result in cancellation or rejection of the application. Since the Government Order dated 18th May, 2026 does not include the petitioner as an OBC-A Category, the petitioner will be treated as a General Category. As per the eligibility criteria, for General Category, a candidate should have 55% marks in the Masters examination. The petitioner is having 52% marks in his Masters examination and thereby the petitioner will be ineligible to participate in the process of recruitment of Assistant Professor. If the petitioner is

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considered under OBC-A Category, he will be eligible since 5% relaxation in marks has been given under the eligibility criteria for the said category. The order of the Hon'ble Division Bench which has been considered in issuing the Government Order dated 18th May, 2026 has been challenged before the Hon'ble Supreme Court in Special Leave Petition. Pursuant to order of the Hon'ble Supreme Court fresh exercise for classification of OBC category has been undertaken by the State and notification No.1057-BCW/MR-38/2025 dated 27th May, 2025 was published. As per the classification of categories under the OBC Head published by notification dated 27th May, 2025 the petitioner comes under OBC-A category. The aforesaid notification dated 27 th May, 2025 was stayed by the Hon'ble Division Bench. The

Hon'ble Supreme Court has stayed such order of the Hon'ble Division Bench. Therefore, as of now the notification dated 27th May, 2025 is very much in existence. By Government notification no.944-BCW/MR-23/2026 dated 18th May, 2026, the right of the petitioner to be treated under OBC category arising from notification dated 27 th May, 2025 has been withdrawn. She also indicates that the rule of the game cannot be changed midway relying on the decisions of the Hon'ble Supreme Court passed in Tej Prakash Pathak and Others versus Rajasthan High Court and Others reported in (2025) 2 SCC 1 and Prabhjot Kaur versus State of Punjab and Others reported in 2025 SCC Online SC 761. In the aforesaid backdrop, she submits that the Commission should not insist upon the petitioner for correction of his category exercising edit option and appropriate orders be passed in such regard.

4. On the contrary Mr. Subhrangsu Panda, learned advocate representing respondent no.4, West Bengal College Service Commission at the outset submits

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that the writ petition is not maintainable under Group-II of the classification list. Since the petitioner has challenged the notification no.944-BCW/MR-23/2026 and 945-BCW/MR-23/2026 dated 18 th May, 2026, hence it should be listed under Group-IX of the classification list. He also indicates that the Commission is duty bound to implement the

directives and the orders passed by the Government from time to time. Therefore, with the change in the classification of OBC Category introduced vide notification of the Government dated 18th May, 2026, the Commission has issued such notification asking the candidates to correct their category by exercising edit option, which has been challenged in the present writ petition. Such notification issued by the Commission is in consonance with the Government Orders and therefore should not be interfered with.

He further submits that a Coordinate Bench of this in a similar situation has dismissed the writ petition in Mahamadul Hasan Gayen versus State of West Bengal & Ors. (Re: WPA 15380 of 2026). In a Public Interest Litigation in Right and Justice Foundation and Another versus State of West Bengal and Others [Re: WPA(P) 305 of 2026] the Hon'ble Division Bench has observed that both the Notifications being No.944-BCW/MR-23/2026 dated 18th May, 2026 and No.945-BCW/MR-23/2026 dated 18th May, 2026 have to be placed before the Hon'ble Supreme Court in the pending SLP. Therefore, the prayer made in the writ petition is not tenable since the matter regarding classification of OBC Category is pending before the Hon'ble Supreme Court. Moreover, if this court is of the other view distinct from the finding of the Co-ordinate Bench, in such event the matter should be referred to a larger Bench for

decision in the matter. In light of his aforesaid

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submissions, he seeks either the matter be referred to a larger Bench or the writ be dismissed.

5. Mr. Lokenath Chatterjee, learned advocate for the State respondents submit that since the issue regarding classification of OBC Category is pending before the Hon'ble Supreme Court, it would be appropriate for the petitioner to approach the Hon'ble Supreme Court by filing interlocutory application in the pending SLP. Further, the Notifications being No.944-BCW/MR-23/2026 dated 18th May, 2026 and No. 945-BCW/MR-23/2026 dated 18th May, 2026 issued by the State Government as on date is valid and is applicable for all the Government institutions including the Commission so far as the admission, recruitment, promotion is concerned. Hence the notifications issued by Commission pursuant to the notifications of the State Government being No.944-BCW/MR-23/2026 dated 18th May, 2026 and No. 945-BCW/MR-23/2026 dated 18th May, 2026 should not be interfered with at the stage. He also seeks for dismissal of the writ petition.

6. With regard to the issue of maintainability of the writ petition it would be apposite to reproduce the relevant provisions under the Appellate Side Rules of the High Court, Calcutta as hereunder:

> "Group-II - Matters relating to educational institutions including service matters relating to such institutions may be divided under the following heads:
>
> (a) Recognition and derecognition of Schools and Colleges.

> (b) Supersession/Suspension/Extension of Managing Committee/Governing Body.
> (c) Approval and disapproval of teaching and non-teaching staff.
> (d) Orders of Appeal Committee.
> (e) Dispute concerning admission.
> (f) Managing Committee and its constitution.
> (g) Powers of different authorities.
> (h) Miscellaneous."

7. The dispute raised in the present writ petition pertains to recruitment in Government aided Colleges in the State of West Bengal in the post of Assistant Professors. Therefore, there cannot be any manner of doubt that the dispute relates to educational

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institutions and thus it comes under Group II of the classification list.

8. Be that as it may, so far as the prayers (a) and (b) of the writ petition seeking for setting aside of the said Notification no. No.944-BCW/MR-23/2026 and 945-BCW/MR-23/2026 dated 18th May, 2026 are concerned, it is found that such Notifications were challenged in a Public Interest Litigation before the Hon'ble Division Bench in Right and Justice Foundation (supra), where the Hon'ble Division Bench on 3rd July, 2026 passed the following order:

> "Indisputably, the judgment delivered by a coordinate Bench of this Court on 22nd May, 2024 has been challenged before the Hon'ble Supreme Court and the said SLP is still pending. The order passed by this Court on 17th June, 2025 in the writ petition challenging the earlier notifications has also been assailed before the Hon'ble Supreme Court and in the said SLP an order has been passed on 28th July, 2025 staying the operation of the order of the High Court dated 17th June, 2025. In course of hearing of the first SLP on 18th March, 2025, it was submitted on behalf of the State that the State is examining the issue of backward classes afresh and, accordingly, the Hon'ble Supreme Court deferred the final hearing

of the matter and the said SLP is pending. In view thereof, the decision ultimately taken by the State vide notification dated 18th May, 2026 has to be placed before the Hon'ble Supreme Court in the pending SLP. In the said conspectus and since the Hon'ble Supreme Court is in seisin over the issues primarily urged in the present writ petition, we are not inclined to entertain the present PIL. For the reasons discussed above, the PIL being WPA (P) 305 of 2026, along with the connected application, are dismissed."

9. Bearing in mind the aforesaid observation of the Hon'ble Division Bench, the prayers (a) and (b) of the writ petition for setting aside of the Notifications dated 18th May, 2026 is not entertainable before this court.

10. A Co-ordinate Bench of this Court in Mahamadul Hasan Gayen (supra) has also dismissed the writ petition upon considering the order of the Hon'ble Division Bench as above holding that once the Hon'ble Division Bench has decided the fate of the notifications dated 18th May 2026, the Court sitting singly cannot overwrite the order of the Hon'ble Division Bench. There cannot be any dissonance with

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such observation of the Co-ordinate Bench rather this court is in full consonance with the said observation so far as prayers (a) and (b) of the writ petition, for setting aside of notifications dated 18th May 2026, are concerned. In such conspectus, the question of referring the matter to the larger Bench as advanced on behalf of the Commission does not arise at all.

11. Be that as it may, one cannot be oblivious to the fact that the petitioner in the present writ petition has also challenged the Notification dated 12 th June, 2026

for modification/correction of Online application and Notification dated 20th June, 2026 for automatic re-classification to General category of the Commission which pertains to educational institutions. Therefore, prayers (c) and (d) of the writ petition challenging the said notifications is very much maintainable.

12. The petitioner claims his category under OBC-A in terms of the Government Notification being No.1057-BCW/MR-38/2025 dated 27th May, 2025. Such Government Notification has been withdrawn vide Notification No. No.944-BCW/MR-23/2026 dated 18 th May, 2026. The Hon'ble Division Bench in the Public Interest Litigation after considering the aspect of pending SLP before the Hon'ble Supreme Court over the issue, has observed that the decision ultimately taken by the State vide notification dated 18th May, 2026 has to be placed before the Hon'ble Supreme Court in the pending SLP. There cannot be any quarrel that the fate of Notification No.944-BCW/MR-23/2026 dated 18th May, 2026, by dint of which earlier notification dated 27th May, 2025 has been withdrawn is before the Hon'ble Supreme Court for adjudication.

13. Before the Coordinate Bench in WPA 15380 of 2026 no argument was advanced pressing for stay of the notification dated 12th June, 2026 for correction of the OBC Category or notification dated 20 th June,

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2026 for automatic re-classification to General
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category. The dismissal of the said writ petition has precisely been made considering the observation of Hon'ble Division Bench that Notifications dated 18th May, 2026 should be placed before the Hon'ble Supreme Court since it is seisin over the matter.

14. Since the petitioner is claiming his category under OBC terms of Notification being No.1057-BCW/MR-38/2025 dated 27th May, 2025 whose validity is yet to be decided by the Hon'ble Supreme Court, hence, until and unless the classification under OBC Category is finally decided by the Hon'ble Supreme Court the fate of the petitioner's application for recruitment to the post of Assistant Professor should be kept alive till such period.

15. Accordingly, Respondent no.4, the Chairperson of the West Bengal College Service Commission is directed not to treat the application submitted by the petitioner as cancelled, in the event of not exercising edit option as per notification dated 12 th June, 2026, and should not automatically re-classify the petitioner as a General category candidate in terms of notification dated 20th June, 2026 till the issue as to the classification under OBC Category in the State of West Bengal is finally decided by the Hon'ble Supreme Court and such application should be kept alive till such period.

16. It is made clear that this order shall be restricted to the petitioner alone.

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17. Learned advocate for the petitioner is directed to communicate this order to Respondent no.4, the Chairperson of the West Bengal College Service Commission, for necessary compliance.

18. With the aforesaid directions, the writ petition being WPA 14698 of 2026 stands disposed of.

19. Since no affidavits have been called for, the allegation

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made in the writ petition is deemed to be not admitted.

20. Interim order, if any, stands vacated.

21. All connected applications, if any, stand disposed of.

22. There shall be no order as to costs.

23. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

24. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)

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