

14.07.2026
Sl. No.1 & 2
Ct. No.14
gd

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA/15396/2025
Dr. Srabanti Bhattacharya
Vs
State of West Bengal And Ors.
IA NO: CAN/1/2025, CAN/2/2025
with
WPA/20940/2025
Dr. Srabanti Bhattacharya
Vs
State of West Bengal And Ors.
IA NO: CAN/1/2025, CAN/2/2025

Mr. Subir Sanyal, Sr. Adv.
Mr. Amiya Kumar Dutta
Mr. Swadesh Priya Ghosh
Mr. Saurojit Mukherjee
... for the petitioner in WPA 15396 of 2025.

Mr. Subir Sanyal, Sr. Adv.
Mr. Amiya Kr. Dutta
Mr. Swadesh Priya Ghosh
Mr. Saurojit Mukherjee
... for the petitioner in WPA 20940 of 2025.

Mr. Sukanta Ghosh
Mr. Arghya Chatterjee
... for the Respondent Nos.1 to 3.

Mr. Nilotpall Chatterjee
Mr. Satyaki Banerjee
... for Calcutta University in WPA 15396 of 2025.

Mr. Nilotpall Chatterjee
Mr. Sourabh Sengupta
... for Calcutta University in WPA 20940 of 2025.

Mr. Debashis Saha
Mr. Avirup Roy Sanyal
Ms. Sucheta Pal
Mr. Jyotishman Sarkar
... for State Bank of India.

Mr. Sumitava Chakraborty
Ms. Sampurna Chowdhury
... for the Respondent Nos.18 and
19 in WPA 20940 of 2025.

1. Affidavit of service filed on behalf of the petitioner is taken on record.

2. None appears on behalf of the other respondents.
3. By the writ petition being WPA 15396 of 2025 (*in short*, 'WPA-I') the petitioner has sought for quashing of the show-cause notice dated 3rd July, 2025 (Annexure P7) as well as for quashing of the notification dated 9th June, 2025 being No.375-Edn(CS)/4C-66/2020 (Annexure P1).
4. By the second writ petition being WPA 20940 of 2025 (*in short*, 'WPA-II') the petitioner seeks for setting aside of the impugned order of suspension dated 29th August, 2025 (Annexure P4) and for setting aside of the purported order of appointment of Vice-Principal vide No.624-Edn(CS)/DPI-99/350/2025-JD(DPI)-DPI dated 25th August, 2025.
5. The petitioner contends that she joined as Principal in Rani Birla Girls' College on 29th September, 2022 when the said college did not have a Governing Body (*in short*, 'GB') and was governed by an Administrator officiating from Department of Higher Education, Vikash Bhawan, Salt Lake City, Kolkata. The said Administrator got transferred and new Administrator was introduced till the notice for formation of GB was issued. On 9th June, 2025, the respondent no.3, the Deputy Secretary, Department of Higher Education (C.S. Branch), Government of West Bengal issued a notice to the Principal of the said college to take necessary steps in the subject as mentioned in the said notification and furnish a report to the said Department at the earliest. By the said notification the

appointment of the Administrator made earlier on 16th March, 2024 was cancelled. The notification dated 9th June, 2025 does not depict that the President is attached to any educational institution or of the like nature. Thus, the appointment of President *vide* said notification is *ex facie* bad in law. Mere nomination of a person for the chair as a President of the GB and other persons to be the members of GB by the State Government does not amount to reconstitution of the GB. As such the notification dated 9th June, 2025 as well as all consequential orders flowing from such nomination is not sustainable. Being aggrieved and dissatisfied with the action of the respondent authorities the petitioner has preferred the aforementioned writ petitions.

6. Mr. Subir Sanyal, learned Senior Advocate appearing on behalf of the petitioner at the outset, in his usual fairness submits that out of *bonafide* mistake a submission was advanced that WP-I has virtually become redundant on recent appointment of an Administrator. He indicates that the challenge made by the petitioner in the writ petitions still exists. From the import of the said notification it is clear that the Principal was supposed to take steps for constitution of the GB. The issuance of notification does not mean formation of the GB. Referring to Section 3(xii) of the West Bengal Universities and Colleges (Administration and Regulation) Act, 2017 (*hereinafter referred to as 'the Act of 2017'*) he submitted that the 'Governing

Body' means Governing Body of a college duly constituted as per prescribed procedure laid down by rules, orders, notifications of the State Government. Further, Section 5 of the Act of 2017 provides that the GB shall consist of three whole time regular teachers and one non-teaching staff elected amongst them along with nominated members. He informs the Court that the election of three whole time regular teachers and one non-teaching staff is yet to take place. Under such circumstances, the GB of the said college has not been constituted till date as required under law. Further, referring to Section 5 of the Act of 2017 he indicated that the President shall be a person interested in education. The notification dated 9th June, 2025 does not depict that the President is attached to any educational institution or does any work of the like nature which has direct bearing with education. Thus, the nomination of President *vide* the said notification is *ex facie* appears to be infraction of the provisions of Act of 2017. It is settled principle of law that mere nomination of a person for the chair as a President of the GB and other persons to be the members of GB by the State Government does not amount to reconstitution of the GB. Thus, when the GB has not been reconstituted the President nominated has no authority to take decisions. Moreover the writ petition WP-II has been filed challenging the suspension order issued against the petitioner during the pendency of writ petition WP-I. In view of the provision of the Act of

2017 the subsequent order of suspension is also without jurisdiction since the GB has not yet been reconstituted. The general principle applicable to consequential orders is that once the basis of a proceeding is gone, any intermediate action by the authority in the meantime will fall on the ground. Such principle applies to judicial, quasi judicial and administrative orders as well. To buttress his contention, he relies on a decision of the Hon'ble Supreme Court in ***Badrinath -versus- Government of Tamil Nadu & ors.***, reported in **2000(8) SCC 395**. In light of his aforesaid submissions, he seeks for quashing of such notification as well as for setting aside the order of suspension including all consequential orders passed by the nominated President.

7. Mr. Sukanta Ghosh, learned advocate appearing on behalf of the State-respondents submit that one Dr. Ashis Kumar Ghosh, Joint Director of Public Instruction has been appointed as Administrator of the said College and the tenure of nominated members has also been terminated.
8. In order to examine the issues involved, it would be profitable to reproduce Section 5 of Act of 2017 as hereunder, which provides for constitution of the GB:

"5. (1) Notwithstanding anything contained in any other law for the time being in force or in any custom or usage to the contrary, the Governing Body of every Government-aided College shall consist of the following members, namely:

- (i) the President shall be a person interested in education, and shall be nominated by the State Government from amongst them and the*

Governing Body or from outside: Provided that the employees or the students of the concerned college shall not be eligible for nomination as President;

(ii) the Principal or the Vice-Principal or the Teacher-in-Charge, as the case may be, of the concerned college, who shall act as the ex officio Secretary to the Governing Body;

(iii) three whole time regular teachers including librarians and Graduate Laboratory Instructors, to be elected from amongst them;

(iv) one non-teaching employee to be elected from amongst them;

(v) two persons to be nominated by the State Government and one person to be nominated by the West Bengal State Council of Higher Education constituted under the West Bengal State Council of Higher Education Act, 2015 respectively;

(vi) one representative from amongst the donor of the college or from the sponsoring body promoting the establishment of the concerned college;

(vii) two persons to be nominated by the affiliating University from amongst eminent educationists, of whom at least one shall be a woman

(viii) one student representative, who shall be the General Secretary of 11 the duly-constituted Students' Body or Union, as the case may be, of the college.

(2) All existing members of the Governing Bodies which were constituted immediately preceding the date of coming into effect of this Act shall continue to be the member of such Governing Body until the normal tenure of the Governing Body expires by efflux of time or unless it is dissolved by the State Government, whichever is earlier.

(3) The tenure of the Governing Body shall be such as may be determined by the State Government from time to time.

(4) Every meeting of the Governing Body shall be convened in the name of the President: Provided that the President's absence in any meeting of the Governing Body shall not invalidate the proceedings of the Governing Body if any one of the nominees of the State Government is present in such meeting and the quorum has been duly formed: Provided further that one third of the members shall form a quorum in every meeting of the Governing Body.

(5) Powers and functions of the Governing Body shall be such as may be provided in the statutes of the affiliating University."

9. Upon bare reading of Section 5 of the Act of 2017, there is requirement under Clauses (iii) and (iv) of Section 5(1) of the Act of 2017 that three whole time regular teachers including librarians and Graduate Laboratory Instructors, to be elected from amongst

them and one non-teaching employee to be elected from amongst them. Admittedly, the whole time regular teachers and non-teaching employee have not been elected as yet. Thus, the GB has not been reconstituted as on date. It is informed by the learned advocate for the State that an Administrator has been appointed for look after the functioning of the College.

10. Further Section 5(1)(i) of the Act of 2017 clearly envisages that the President shall be a person interested in education and shall be nominated by the State Government from amongst the members of the Governing Body or the outside. There is no material placed before the Court to suggest that the proposed President nominated is a person interested in education or has any bearing with education. Thus, it appears that there is contravention in nominating the President *vide* notification dated 9th June, 2025.

11. In the above conspectus, the notification being No.375-Edn(CS)/4C-66/2020 dated 9th June, 2025 of Deputy Secretary, Department Higher Education, C.S Branch is hereby quashed.

12. Furthermore this Court finds substance in the submissions of Mr. Sanyal, learned Senior Advocate for the petitioner relying on *Badrinath (supra)* that the general principle applicable to consequential orders is that once the basis of a proceeding is gone, any intermediate action by the authority in the meantime will fall on the ground.

13. Consequently, bearing in mind the aforesaid principles of law, the show-cause notice dated 3rd July, 2025 and order of suspension issued by the nominated President (proposed) dated 29th August, 2025 is also set aside.
14. All consequential orders passed by the nominated President (Proposed) will deemed to be set aside.
15. With the aforesaid directions, the writ petition being **WPA 15396 of 2025** and the writ petition being **WPA 20940 of 2025** stand disposed of.
16. Interim order, if any, stands vacated.
17. All connected applications, if any, stand disposed of.
18. There shall be no order as to costs.
19. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
20. 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.)