

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

Present : **HON'BLE JUSTICE SOUMITRA PAL,**      **HON'BLE CHAIRMAN &**

**HON'BLE SAYEED AHMED BABA,**      **ADMINISTRATIVE MEMBER.**

Case No. – OA 364 of 2022.

ATRI KAR – VERSUS-THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. M.N. Roy, Mr. A. Mitra, Mrs. S. Das, Advocates.
<u>3</u> 17.6.2022	For the State respondent Nos. 1 to 4	: Mr. G.P. Banerjee, Advocate.
	For the Respondent Nos. 5, 6 & 7	: Mr. S. Bhattacharjee, Advocate.
	For the Respondent No. 8	: Mr. S.N. Ray, Advocate.

Though the matter has appeared under the heading “New Application”, since copies of the application and notice have been served on the respondents and the learned advocates for the parties have appeared, the matter is treated to be under Admission Hearing.

In this application Atri Kar, the applicant stated to be transgender as evident from the affidavit and stated to be third gender in the application for the West Bengal Civil Services (Executive) etc. Examination, 2022 has prayed for certain reliefs, the relevant portion of which are as under :-

*“a) An order do issue directing the concerned respondent authorities to provide reservation for transgender community in the West Bengal Civil Service (Exe.) etc. Examination, 2022 in accordance with the Judgement passed by the Hon'ble Supreme Court of India in National Legal Services Authorities – versus- The Union of India and others, reported in (2014) 5 SCC 438.*

*b) An order do issue directing the concerned respondent authorities to provide reservation for transgender community in the West Bengal Civil Service (Exe) etc. Examination, 2022 in accordance with the Judgement passed by the Hon'ble Supreme Court of India in National Legal Services Authorities – versus- The Union Of India and others, reported in (2014) 5SCC 438 in a manner as provided in the Joint CSIR-UGCNET*

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*Examination June, 2021 which is framed after complying with the directions of the Hon'ble Supreme Court of India...".*

Mr. M.N. Roy, learned advocate appearing on behalf of the applicant relying on the judgement of the Supreme Court in National Legal Services Authority – Versus- Union of India and Others reported in (2014)5 Supreme Court Cases 438, particularly paragraph 135.3 thereof submits that as in the advertisement that there is no provision for reservation for transgender community in the ensuing Civil Services Examination, let interim order of stay be granted for the recruitment/selection process which is going to commence on 19<sup>th</sup> June, 2022.

Mr. G.P. Banerjee, learned advocate appearing on behalf of the respondent nos. 1 to 4 submits that in view of the provisions contained in the Transgender Persons (Protection of Rights) Act, 2019, particularly sections 4,5 and 6 thereof, as the applicant does not have any certificate recognising the applicant as transgender, the present application is not maintainable and no interim order may be granted.

Mr. S. Bhattacharjee, learned advocate appearing on behalf of the Public Service Commission, West Bengal submits since admit card has been issued to the applicant, the applicant has the liberty to participate in the selection process and no interim order may be granted.

Mr. S.N. Ray, learned advocate appearing on behalf of the respondent no. 8 opposes the prayer for grant of interim order.

Having heard the learned advocates for the parties and considering the facts and circumstances of the case, we are of the view that the applicant is at liberty to participate in the selection process in the West Bengal Civil Service (Executive) Etc. Examination, 2022 without prejudice to the rights and contentions of the parties. After the examination, the answer script and mark sheet of the applicant shall be kept in a sealed cover and shall not be opened without the leave of the Court.

Keeping in view the facts and circumstances of the case, the

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appointments, if any, shall abide by the result of the application in view of the judgement of the Supreme Court in National Legal Services Authority (supra), particularly the declaration in paragraph 135 and sub paragraphs thereof.

The point of maintainability of the application, as raised by the learned advocates for the respondents, is kept open.

Considering the facts and circumstances of the case, the Chief Secretary, Government of West Bengal and Additional Chief Secretary, Government of West Bengal, Home and Hill Affair Department, - the respondent nos. 2 and 3 respectively shall file status reports in a sealed cover before the Tribunal regarding reservation of the transgender community in West Bengal pursuant to the directions of the Supreme Court in National Legal Services Authority (supra) before the next date of hearing.

Let the matter appear under the heading "Admission Hearing" on 27<sup>th</sup> July, 2022.

Let plain copies be given to the parties and the respondents will act on the said basis.

(SAYEED AHMED BABA)  
MEMBER(A)

(SOUMITRA PAL)  
CHAIRMAN.

Sc/Skg.

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