

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.335 of 2022

Smt. Mousumi Datta, W/o- Sri Anik Roy, R.O:- North Badharghat,
Subhas Pally, P.O+P.S- A.D. Nagar, District- West Tripura, PIN- 799003,
aged about 30 years.

.....Petitioner(s);

Versus

1. The District and Sessions Judge, Unakoti District, P.O+P.S:-
Kailashahar, District:- Unakoti, PIN-799277

2. The Civil Judge (Senior Division) and Assistant Sessions Judge,
Unakoti District, P.O+P.S: Kailashahar, District- Unakoti, PIN- 799277

3. The Judicial Magistrate First Class cum Civil Judge (Junior Division),
Unakoti District, P.O+P.S: Kailashahar, District- Unakoti, PIN-799277

4. The Hon'ble High Court of Tripura, represented by its Registrar
General, P.O:- Kunjaban, P.S:- New Capital Complex, District- West
Tripura, Pin-799006

.....Respondent(s).

For Petitioner(s) : Mr. A. Bhaumik, Advocate,
Mr. S. Dey, Advocate.

For Respondent(s) : Mr. B.N. Majumder, Sr. Advocate,
Mr. Debalay Bhattacharya, G.A.,
Mr. Soumyadeep Saha, Advocate,
Ms. N.C. Saha, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

JUDGMENT & ORDER (ORAL)

18/05/2023

The petitioner appeared for the Written Test for direct recruitment to the post of Lower Division Clerk (LDC) under District & Sessions Judge Court, Unakoti District, Kailashahar. However, as per her own assertion, instead of underlining the relevant answers to certain

questions as per the instructions contained in the answer sheet, she put a tick mark against the correct answers out of anxiety and tension of appearing in the examination and as a result, was declared to be “Not qualified”. She applied for information under the Right to Information Act, 2005 on 16.03.2022 for review of the answer script. Petitioner was allowed with the answer script and she found that she had provided tick mark against the correct answers which were not counted towards final scores of the petitioner in the Written Test. According to the petitioner, if all the correct answers were counted, the total score of the petitioner would be 60 out of 85 marks. The qualifying or cut off mark settled by this High Court in the administrative side was 50 marks out of 85 marks for the Written Test. The candidate who scored the highest marks in the Written Examination scored 74 out of 85 marks. Being aggrieved by non-declaration of her result as “Qualified”, she approached this Court.

2. Mr. A. Bhaumik, learned counsel for the petitioner, has drawn the attention of this Court to a notification dated 04.04.2022 at Annexure-5 to point out that apart from the petitioner, few other candidates such as Shri Debayan Deb with Roll No.6743 and Shri Subhrangshu Bikash Saha with Roll No.4011 and Shri Amrit Debbarma with Roll No.1384 of the Scheduled Castes/Scheduled Tribes category

were also declared “Not qualified” for having chosen the wrong method of answering.

3. Mr. Bhaumik, learned counsel for the petitioner, submits that this change in instructions was brought for the first time as earlier General Instructions were issued for the candidates appearing in such examination for appointment to the posts under the District Judiciary. Petitioner, therefore, alleges arbitrariness in the action and seeks a direction to declare the petitioner as “Qualified” in the Written Test held on 24.01.2021 and permit her to participate in the next phase of the selection process which was the Type Test scheduled on 17.04.2022.

4. Both Mr. B.N. Majumder, learned senior counsel and Mr. Debalay Bhattacharya, learned Government Advocate for the respondent-High Court of Tripura and District Judiciary respectively, have strongly opposed the prayer. It is submitted that since the petitioner admittedly failed to follow the instructions for the examination as she was suffering from anxiety and tension, the evaluation of her results cannot be declared to be arbitrary or illegal. The evaluation of the answer scripts of all such candidates was undertaken on the basis of the same instructions and those who had underlined the correct answers, their marks were counted for preparation of the result. If few candidates failed to follow the instructions correctly and instead tick marked the

correct answers instead of underlining them, the remarks against those candidates as having “Not qualified” cannot be faulted. It is submitted that selection process has long been over.

5. Having considered the submissions of learned counsel for the parties and on consideration of the material facts noted from record as pleaded, this Court is not inclined to interfere in the matter for the reason that no infirmity in the evaluation process has been made out on the part of the petitioner. Petitioner admits of having not followed the instructions and rather tick marked the correct answers instead of underlining them as was the Written Instructions for that purpose. Those candidates who followed the instructions and underlined the correct answers, they were treated as “Qualified” in the Written Test and allowed to appear in the second phase of the examination. Since the petitioner did not follow the instructions properly, the answers to the relevant questions which were tick marked could not be evaluated and counted towards the total marks in the Written Test.

6. As such, petitioner has not made out any case for interference. The writ petition, being devoid of merit, is dismissed.

Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ