

14.08.2026
Court No.13
Item No. 7
sp/pk

FMA 1357 of 2025
With
CAN 1 of 2025
With
CAN 2 of 2026

District Primary School Council, Malda & Ors.
Vs.
Kartik Pandey and Ors.

Mr. T. M. Siddiqui, Sr. Adv.
Mr. Avishek Prasad.

... For the Appellants.

Mr. Subir Sanyal, ld. Sr. Adv.,
Mr. Ali Ahsan Alamgir,
Ms. Rabia Khatoon,
Ms. S. Mal,
Ms. June Modak.

... For the respondent/writ petitioner.

1. The subject appeal is directed against judgment and order dated 15th July, 2025 passed by a Single Bench of this Court in WPA 13514 of 2025.

2. By the said order, the Single Bench directed the District Primary School Council (DPSC), Malda to issue a letter of appointment to the petitioner as a teacher in the primary school. Aggrieved by the same, the DPSC, Malda has filed the instant appeal.

3. The brief facts relevant to the case are that the writ petitioner/respondent participated in the first SLST, 2016 for the post of Assistant Teacher in a Higher Secondary Section for Classes XI and XII. Prior thereto, he also participated in the selection process for the post

of primary teacher under the DPSC, Malda of the year 2009 that was completed sometime in 2018. Since the selection process in the first SLST, 2016 was completed first and the petitioner having succeeded therein, he joined as an Assistant Teacher in a Higher Secondary School called 'Duba Khoksan Bairdang K.R. High School (H.S.) and was working continuously thereat since 17th September, 2018.

4. A letter of appointment dated 28th September, 2021 issued to the petitioner by the DPSC Malda for succeeding in the said recruitment process of the year 2009 for the post of primary teacher. It was specified in the letter of appointment that if the petitioner joins the post within 30 days, the recruitment and appointment would lapse. The petitioner did not join the post of primary teacher since he had already joined and was working as Assistant Teacher in the above mentioned School, pursuant to the appointment letter dated 17th September, 2018.

5. The first State Level Selection Test (SLST) of the year 2016 under which the respondent/petitioner succeeded and secured appointment and was working continuously till 2021, came to be set aside by the Hon'ble Supreme Court in the case of ***State of West Bengal Vs. Baishakhi Bhattacharyya (Chatterjee) & Ors.*** reported in ***2025 INSC 437*** being ***dated 3rd April, 2025*** passed in ***SLP (Civil) No. 9586 of 2024***. The

Hon'ble Supreme Court found gross irregularities in the selection process.

6. The petitioner, however, claims that he was an untainted candidate in terms of the list published by the School Service Commission (SSC). Placing reliance upon paragraph no. 47 of the decision of the Supreme Court in ***Baishakhi Bhattacharyya (Chatterjee) & Ors. (supra)***, it is argued by the learned counsel for the respondent no. 1, that since his client was an untainted candidate, the benefit of the said paragraph must be given to him. The benefit contemplated by the Hon'ble Supreme Court in the said paragraph was, however, for those who were in service in various departments of the State and had left the same to participate in the first SLST. The petitioner admittedly is not one such category of persons.

7. The Trial Judge appears to have been persuaded to consider the case of the writ petitioner on sympathetic grounds merely because he was an untainted candidate in the first SLST and also because he was issued a letter of appointment dated 28th September, 2021 by the Chairman, DPSC, Malda.

8. This Court is of the view that the Trial Judge has committed error in allowing sympathy to prevail over the law and Rules in directing the petitioner to be issued a letter of appointment.

9. It was clearly stipulated in the letter dated 28th September, 2021 (supra) that if the petitioner did not join the post within thirty days, the appointment and selection would automatically lapse. The petitioner has clearly and consciously chosen not to join the post as a primary teacher under the DPSC, Malda because he was already appointed and working in a Higher Secondary School after being selected in the first SLST. An additional reason which is admitted in the writ petition is that the pay and allowances for a secondary teacher are higher than that of what is available to a primary teacher under the District Primary School Councils in the State.

10. The writ petitioner having consciously decided to allow the appointment under the DPSC, Malda to lapse did not and cannot have any vested right to seek any revival of the lapsed appointment letter dated 28th September, 2021, that too in the year 2025. There is absolutely no scope for exercise of discretionary relief when there is an express bar in law and the Rules framed thereunder. Both sides have irretrievably altered their positions acting in furtherance of the lapse of the letter of appointment.

11. It is now well settled that equity has no role to play when a contractual stipulation or a consequence under the law that has already comes into operation. The

principles of waiver acquiescence and estoppel become applicable against petitioner.

12. In the light of the above discussions, this Court is of the view that the impugned order directing the appellant/DPSC, Malda to appoint the petitioner on sympathetic grounds, is erroneous and calls for interference by this Court.

13. The impugned order dated 15th July, 2025 shall stand set aside. WPA 13514 of 2025 shall stand dismissed.

14. Accordingly, FMA 1357 of 2025 is hereby allowed and disposed of. Consequently, connected pending applications are also disposed of.

15. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Anuj Singh, J.)