

**Circuit Bench of Calcutta High Court
at Jalpaiguri**

UL 03.04.
sm 2019

W.P.A.7 of 2019

**Darjeeling Gorkha Unemployed Primary Trained
Teachers' Welfare Organization & Anr.**

Versus

The State of West Bengal & Ors.

Mr. Utsav Dutta,
Mr. Rafiqul Islam.

.....for the petitioners.

Mr.ayanabha Raha,
Mr. Kumar Shantanu.

....for the GTA, respondent no.4 & 5.

Mr. Joyjit Dutta,
Mr. Bikramaditya Ghosh,
Ms. Bedashruti Basu.

.....for the State.

The writ petition is presented by Darjeeling Gorkha Unemployed Primary Trained Teachers' Welfare Organization (D.El.Ed.) (hereinafter the organization) and the president of the said organization challenging the advertisement published in "Himalaya Darpan" on 26th February, 2019, 27th February, 2019 and 28th February, 2019.

In the writ petition petitioners have made following prayers:-

"(b). Issue a writ of and /or in the nature of Mandamus directing and/or commanding to constitute a special investigating team to conduct an independent enquiry to find out the erring officials and/or persons involve in the matter of illegal recruitment to the post of primary teacher and fix up the responsibility of the person concern and submit

the report to the Hon'ble Court.

(c). Issue writ of and/or in the nature of mandamus by directing the respondent authorities to cancel and/or quash and/or set aside the illegal appointment of 121 teachers to Primary School made without due procedure of law.

(d). Issue a writ of and/or in the nature of Mandamus by directing the respondent authorities to cancel and/or quash and/or set aside the advertisement dated February 25, 2019 by which appointments are being sought to be made to primary Schools under the guise of conducting Regional Teacher Eligibility Test.

(e). Issue a writ of and/or in the nature of Mandamus directing and/or commanding to constitute a special investigating team to conduct an independent enquiry to find out the erring officials and/or persons involve in the matter of illegal recruitment to the post of primary teacher and fix up the responsibility of the persons concern and submit the report to the Hon'ble Court."

It is also the case of the members of the organization that having prescribed qualifications as per NCTE norms they are eligible to be appointed on the posts of primary teacher in the schools within the jurisdiction of Gorkhaland Territorial Administration.

It is also contended by the organization, being one of the petitioners herein, that the eligible members of the said organization made applications pursuant to the advertisement published in "Himalaya Darpan". The association by filing the present writ petition has expressed its apprehension to the extent that while conducting the selection process the concerned respondent authorities will not follow the recruitment rules for appointment on the posts of primary teacher.

On behalf of the association it is submitted that 121 primary teachers were appointed without due process of law in the posts of primary teachers but these candidates are not made party respondents in the present writ petition.

Mr. Ayanabha Raha, learned advocate appearing for the Gorkhaland Territorial Administration and the District School Board, Gorkhaland Territorial Administration today submits on instructions that pursuant to such advertisement dated 25th February, 2019 under Memo No. 733/1A-13 no subsequent steps have been taken till date in connection with the selection process for appointment on the posts of primary teacher in the school situate within the jurisdiction of Gorkhaland Territorial Administration.

In the above conspectus of facts, it is conspicuous that till date no specific cause of action

has arisen affecting the right of the organization and its members since after the advertisement issued under Memo dated 25th February, 2019 no further progress has been made with regard to the said selection process. Moreover, the members of the said organization pursuant to such advertisement issued under memo dated 25th February, 2019 submitted application and offered their candidature. It is trite law that after offering the candidature pursuant to an advertisement the candidates cannot turn around and challenge the said advertisement by which applications were invited from the eligible candidates especially when no subsequent steps till date have been taken in connection with the said selection process by the appointing authority.

Therefore, the writ petition is a speculative one and is not maintainable and accordingly dismissed.

There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the learned advocate appearing for the parties on compliance of all requisite formalities.

(Saugata Bhattacharyya, J.)

