

14.09.2020
Court No. 05
Item No. 7
CP

WPA 6136 of 2020
With
IA NO. CAN/1/2020 (Old NO. CAN 4410
of 2020)

(Via video conference)

Subrata Kumar Dutta
vs.
State of West Bengal & ors.

Mr. Prosenjit Mukherjee,
Ms. Madhurima Sarkar,
Mr. Saptarshi Chakraborty,

.....for the petitioner.

Mr. Subir Sanyal,
Ms. S. Sen,
Mr. Sagnik Roy Chowdhury,

...for the respondent no. 4.

Ms. Chaitali Bhattacharya.

....for the State.

The petitioner is a primary school teacher of Bhagabatipur Primary School. The petitioner has challenged a communication dated July 10, 2020, issued by the Chairman, District Primary School Council, Birbhum. The petitioner submits that the 'A' category scale was wrongly denied to the petitioner contrary to the provision of Clause 3 of the notification dated August 13, 2012, No. 389(38)-SE(E))/PTTI-7/11, issued by the Government of West Bengal, School Education Department.

It is the contention of the petitioner that even if the petitioner did not get 50% marks in his higher secondary examination, being an exempted category candidate, 45% marks in the higher secondary examination would entitle him for the 'A' category scale after having obtained a diploma in D.El. Ed. The petitioner got 49% marks in his higher secondary examination.

Mr. Sanyal, learned advocate appearing for the Council, submits that the petitioner was not issued a final certificate from the National Institute of Open Schooling as the Institute of Open Schooling had reserved issuance of the final certificate for verification whether the petitioner satisfies the eligibility criteria of having obtained 50% marks in Class XII. According to Mr. Sanyal, although the communication of the Chairman was not happily worded, in effect, the Chairman intended to deny the category 'A' benefit in the absence of the final certificate.

Ms. Bhattacharya, appearing on behalf of the State respondents, submits that unless the petitioner satisfies the eligibility criteria as per the Government notification, the category 'A' benefit could not be given to the petitioner.

Having perused the records, I find that prima facie the petitioner being an exempted category candidate, was not required to get 50% marks in his

higher secondary examination if he already had his D.El. Ed. Diploma. However, the petitioner is unable to satisfy this Court as to whether a final certificate was granted by the authority from whom the petitioner had completed the course of D.El. Ed diploma. However, the communication dated July 10, 2020 impugned to this writ petition, does not provide a reason as to why the said benefit was denied, except a single cryptic line in support of denial of the claim. Such communication cannot be sustained.

The Chairman, District Primary School Council, Birbhum is directed to reconsider the matter in the light of the notifications dated August 13, 2012 and June 15, 2012 with regard to whether 50% marks in the higher secondary examination was required or not. All documents to be supplied by the petitioner for such consideration. The petitioner is granted liberty to produce the final certification from the authority.

Upon considering the entire matter afresh and upon hearing the petitioner and all other persons, the authority should pass a reasoned order communicating the same to the petitioner. The entire exercise should be completed within a period of eight weeks from date.

With the above observations the writ petition as well as CAN 4410 of 2020 are disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities. Parties to act on the server copy of the order.

(Shampa Sarkar, J.)