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W.P.A. 613 OF 2021

(Through Video Conference)

Intiaz Haque

Vs.

The State of West Bengal & Ors.

Mr. Rudra Jyoti bhattacharjee
Ms. Debjani Ghosal.

... For the Petitioner

Dr. Chapalesh Bandyopadhyay
Ms. Anandamayee Dutta.

... For the Respondent
No. 2.

Ms. Nandini Mitra

... For the Respondents
No. 3 to 5.

1. This is an application under Article 226 of the Constitution of India wherein the writ petitioner has raised two challenges before this writ Court. Firstly, he challenges Clause 7 of the new guidelines dated December 31, 2020 (Annexure – P6) issued by the West Bengal Central School Service Commission (hereafter referred to as the ‘Commission’). Secondly, he prays for a direction upon the Commission to allow the revised marksheet dated July 17, 2017 to be used for verification as per the impugned guidelines.

2. Counsel appearing on behalf of the petitioner submits that the petitioner had received a marksheet on August 19, 2015 with regard to his B.Ed. Semester – I &

II Examination, 2014-15. Subsequently, due to certain irregularities within the University, the above marksheet was declared cancelled and the petitioner was asked to sit for a particular examination in the year 2017 and after taking this examination, the petitioner qualified and was provided with another marksheet dated July 17, 2017.

3. The petitioner accordingly submits that for no fault of his, the certificate issued in 2017 may be disallowed by the Commission due to specific Clause 7 of the guidelines.

4. Dr. Chapalesh Bandyopadhyay, counsel appearing on behalf of the Commission submits that the guidelines and the new verification that is being undertaken is as per the order passed by the Hon'ble High Court dated December 11, 2020 in connection with W.P.A 9597 of 2017. He submits that the guidelines are only in furtherance of the earlier vacancy notification that had been issued on September 23, 2016. He submits that a document that had been submitted by online submission as per the earlier notification, can be the only document used and no further document can be allowed in relation to any further qualification of the candidates.

5. I have heard counsel appearing on behalf of the parties and perused the materials on record. Upon a perusal of the documents, it is clear that the impugned guidelines are issued in terms of the judgment passed by

this Hon'ble Court and Clause 7 only reiterates the position in law, i.e., that a person cannot be allowed to produce documents at the time of verification in relation to any further qualification he may have obtained subsequent to the date of vacancy notification. Accordingly, I am of the view that the prayer 'a)' of the petitioner regarding recalling/modification of Clause 7 of the impugned guidelines (P-6 at page 42) cannot be granted and is, accordingly, rejected.

6. With relation to the prayer of the petitioner that the certificate that had been issued to him in the year 2015 be allowed to be replaced by the new certificate issued in 2017, I see some merit. The reason for the same is that it was not due to any fault of the petitioner that the earlier certificate was cancelled. Furthermore, the new certificate does not give rise to any further qualification of the petitioner but relates to the qualification he had obtained prior to issuance of the SLST Examination.

7. In light of the above observation, the Commission is directed to consider the certificate issued on July 17, 2017 with reference to the petitioner, keeping in mind the peculiar facts and circumstances of this case.

8. In view of the fact that the documents subsequent to September 24, 2016 cannot be filed online, the petitioner is directed to serve a copy of the new certificate

along with a website-copy of this order upon the Commission within a period of one week from date.

9. In the event the order and the certificate are served upon the Commission, the Commission shall take the same into consideration.

10. Since nothing remains in the writ petition, the writ petition is disposed of. There shall be no order as to costs.

11. Since no affidavits-in-opposition are called for, the allegations made in the writ petition are deemed not to have been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)