

19.07.2021

BP
Sl. 23
Court No. 17

WPA 11018 of 2021
With
IA No. CAN 1 of 2021 (Not in file)
(Via Video Conference)

Rima Ghosh and Another
Vs.
State of West Bengal & Ors.

Mr. Biswarup Nandy
Mr. Sourav Halder
..for the petitioners.

Mr. Biswabrata Basu Mallick
Mr. Rajaram Banerjee
..for the State.

Mr. L.K. Gupta, Sr. Adv.
Mr. Ratul Biswas
..for the Board.

In the writ application the prayers (a) to (e) are as follows:-

- a) Issue a writ of and/or in the nature of Mandamus by cancelling and/or quashing and/or setting aside the merit list as has been prepared and published by the West Bengal Board of Primary Education apropos to the notification dated December 23, 2020 issued by the West Bengal Board of Primary Education.
- b) Issue a writ of and/or in the nature of Mandamus directing the respondent Board to conduct recruitment process under reference strictly adhering to the West Bengal Primary School Teachers Recruitment Rules 2016.

- c) Issue a writ and/or in the nature of Mandamus restraining the respondent authorities and their men, agents, subordinates and each one of them from giving effect and/or further effect to the Notification dated 23.12.2020 till disposal of this petition;
- d) Issue a Writ in the nature of Mandamus directing the respondent authorities and their men, agents, subordinates and each one of them to prepare and publish the merit list afresh in connection with the Notification dated 23/12/2020 issued by the West Bengal Board of Primary Education and follow the consequential steps for recruitment to the post of Assistant Teachers in Primary Schools under different District Primary School Council;
- e) A writ in the nature of Certiorari do issue directing the respondents to transmit the entire records pertaining this case and to certify them and on being so certified, quash the same so that conscionable justice may be administered to the parties;"

Learned advocate for the petitioners submits that the marks obtained by each of the candidates are to be disclosed by the West Bengal Board of Primary Education.

This Court wanted to know the rule under which there is a legal duty imposed upon the Board of Primary Education for disclosing the marks of the candidates. The petitioners in support of their submission placed Rule 8(5) (b)(i) which is as follows:-

“(i) a panel of all selected candidates in a district, namely unreserved Category comprising of the names of the candidates belonging to General Category and reserved candidates of Scheduled Caste Category, Scheduled Tribe Category, OBC Category-A, OBC Category-B and PH Category serially according to descending order of merit as per existing vacancies medium wise;”

From the said Rule, I do not find any duty that has been cast upon the Board to publish the marks of the candidates.

Learned advocate for the petitioners submits that when it speaks that the panel is to be published of all selected candidates serially according to descending order of merit as per existing vacancies medium wise, these implies publication of marks also.

This submission is wholly meritless as there is no specific provision in the said Rules for publication of marks of the candidates. This court cannot read anything in the rules which is not there. The Rules have not been challenged in this writ application. He also submits that the merit comprises of the marks. The petitioners have also filed one application under Right to Information Act which is at Annexure P-10 of the writ application.

As I do not find any specific provision for publication of marks and I have not found any specific prayer for publication of marks in the prayers of the writ application which have been quoted above, I find neither the writ application nor the submissions made from the bar have any merit. Therefore, the petitioners have failed to show any legal right corresponding to the legal duty on the part of the West Bengal Board of Primary Education to

disclose the marks.

Therefore, the writ application is dismissed with costs of Rs. 5,00/- to be paid to the High Court Legal Services Authority within a period of two weeks from date.

The CAN 1 of 2021 relating to the writ application has not been pressed.

(Abhijit Gangopadhyay, J.)

