

Court No. 17

WPA 11381 of 2021

**15.07.2021**

(AD 10)

(S. Banerjee)

Sourav Kumar Pathak & Ors.

Vs.

State of West Bengal & Ors.

(Via Video Conference)

Mr. Bikash Ranjan Bhattacharya, Sr. Advocate

Mr. Dibyendu Chatterjee

Ms. Jhuma Chakraborty

Mr. Pritam Majumder

Ms. Reshmi Ghosh

... for the petitioners

Mr. Bhaskar Prasad Vaisya

Mr. Suman Dey

... for the State

Mr. I. K. Gupta

Mr. Subir Sanyal

Mr. Ratul Biswas

... for the Board

This writ application has been filed by 115 petitioners but only one petitioner had filed the court fees.

Today at the time of hearing Mr. Bhattacharya, learned senior counsel for the petitioners, has intimated this court by filing one document showing that under entry no. A-6832 dated 13<sup>th</sup> July, 2021 full court fees have been paid. The document be kept on record.

This is one writ application wherein in paragraph no. 67 the petitioners have prayed that the West Bengal Board of Primary Education has not published the panel with marks of the candidates. Due to non-publication of the marks of the enlisted candidates, petitioners could not ascertain their position as well as the position of the merit-listed candidates. This paragraph has been specifically pressed by learned senior counsel Mr. Bhattacharya. From prayer (c) of the writ application I find that the prayer is for issuing a writ in the nature of Mandamus commanding the

respondents their men, agents and assigns to publish the merit list with all details of the merit-listed candidates and of the petitioners, their marks in the written examination, academic score, TET weightage and the marks obtained in the personality test.

I requested time and again the learned senior counsel Mr. Bhattacharya to show me from the rule of West Bengal Primary School Teachers Recruitment Rules (said Rules in short) based on which such an order could be passed. Mr. Bhattacharya first drew my attention to Section 2(l) of the said Rules. I have noted that there is no such mentioning for which such an order for publication of all details of the candidates can be given. Thereafter Mr. Bhattacharya drew my attention to Rule 8 of the said Rules which is “procedure of selection”. On a reading of the same also I have not found any such mentioning wherefrom it can be gathered that the Council has a duty to publish all the details of the merit-listed candidates. Mr. Bhattacharya also drew my attention and placed elaborately different sub-Rules under Rule 8 and different notes thereunder. Though some provisions have been shown to me and though some interpretations were sought to be given by the learned Counsel, I have not found any such provision shown from the said Rule that the details as mentioned in the prayer (c) are to be published. Learned counsel referred to Rule 12(4) of the Rule framed by the West Bengal Central School Service Commission for upper primary teachers in support of his submission that in the Rules for the primary teachers also same thing is required to be followed by publishing the details of the merit-listed candidates. But he has not been able to show any equivalent provision or similar provision as in Rule 12(4) of the Rules framed by the West Bengal Central School Service Commission for Upper Primary Teachers

which lays down that details of the merit-listed candidates are to be published by the West Bengal Board of Primary Education.

Mr. Bhattacharya has also made submission on the question of transparency by saying that the procedure adopted by the West Bengal Board of Primary Education is non-transparent and for the sake of transparency the details are to be required to be published.

Unless some provision is there in the said Rules the petitioners cannot claim any legal right showing corresponding legal duty to publish the details by the authority as has been prayed by the petitioners. Further, I cannot read something in the said Rules which is not there in the Rule.

As no other paragraph of the writ application has been placed before me by the petitioners, I need not go into those questions.

For the reasons as aforesaid, I do not find any merit in the writ application and the same is dismissed without any order as to costs.

**(Abhijit Gangopadhyay, J.)**