

Item No.5

16.12.2021  
Ct-24

In The High Court At Calcutta  
Constitutional Writ Jurisdiction  
(via video conference)

WPA 17923 of 2021  
Abhijit Karan  
v.  
The State of West Bengal & Ors.

Mr. Bharat Chandra Simai  
... for the petitioner.

Mr. Malay Kumar Singh  
Ms. Neelam Singh  
... for the State respondents.

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

The petitioner appeared for being recruited as primary teacher in response to a Notification for recruitment dated December 23, 2020 published by the West Bengal Board of Primary Education.

Note 1 of the said notification clearly mentions that any candidate seeking appointment to the post of primary school teacher shall have studied and passed in the specific language as the first or second language in the Higher Secondary Level or equivalent for which medium of instruction, the candidate is seeking appointment.

The petitioner opted for the medium Bengali.

The District Primary School Council, Howrah issued a letter of appointment in favour of the petitioner on July 20, 2021 but thereafter by a communicating Memo dated August 3, 2021 the appointment letter of the petitioner was withdrawn and cancelled.

The reason for withdrawal and cancellation of the appointment letter mentions that though the petitioner opted for the medium Bengali but he did not study Bengali either as first or second language in the Senior School Certificate Examination as per the mark-sheet submitted by him.

The petitioner admittedly did not have Bengali as either first or second language in the Higher Secondary Examination.

The petitioner submits that there was no scope for opting in the English medium school at the time of filling the application form.

It has been submitted by the Board that there is no English medium school run by the West Bengal Board of Primary Education and accordingly there is no reason to provide an option to a candidate for giving approval for teaching in the English medium school.

To controvert the aforesaid submission the petitioner relies upon documents to show that there are vacancies in English medium schools.

It has been submitted by the Board that the vacancies in the English medium schools arose subsequent to the recruitment notice which was published. The petitioner cannot take advantage of a subsequent notification when he appeared in the recruitment examination pursuant to the Notification dated December 23, 2020.

It appears from the submissions made on behalf of both the parties that the petitioner at the very first instance was not eligible to apply in terms of the Notification dated December 23, 2020 as he did not have Bengali as one of his subjects in the Higher Secondary Level. The issuance of the letter of appointment did not create any right in favour of the petitioner as the same was issued inadvertently and was cancelled immediately after detection of the error. The petitioner cannot take advantage of the erroneous issuance of the letter of appointment.

Accordingly, no relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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**(Amrita Sinha, J.)**