

Item No.43

06.12.2021
Ct-24

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

WPA 18007 of 2021
Md. Abu Saleh

v.

The State of West Bengal & Ors.

Mr. K. M. Hossain
Mr. Rati Kanta Pal
... for the petitioner.

Mr. Swapan Banerjee
Mr. Saugata Mitra
... for the State respondents.

Mr. Ratul Biswas
... for the West Bengal Board of
Primary Education.

The petitioner seeks appointment as a primary teacher.

By the Notification dated August 23, 2010 published by the National Council for Teacher Education (NCTE) under the provisions of the Right of Children to Free and Compulsory Education Act, 2009 the minimum qualification required for teaching students in Class 1 to IV was:-

(a) Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education (by whatever name known) or Senior Secondary (or its equivalent) with at least 45% marks and 2-year Diploma in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure), Regulations 2002 or Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (B.El.Ed) or Senior Secondary (or

its equivalent) with at least 50% marks and 2-year Diploma in Education(Special Education) and (b) Pass in the Teacher Eligibility Test(TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.”

The aforesaid Notification dated August 23, 2010 was amended by NCTE by Notification dated June 28, 2018 whereby the minimum qualification for teaching students in the primary classes was fixed as graduation with at least 50% marks and Bachelor of Education (B.Ed.).

The petitioner does not have 50% marks in the graduation examination.

In view of the amended Notification dated June 28, 2018 the petitioner is ineligible to be appointed as primary school teacher.

The grievance of the petitioner is that NCTE has amended the Notification dated August 23, 2010 which was applicable in respect of the teachers to be appointed for Classes VI to VIII and have amended the same by mentioning that at least 50% marks has to be obtained by the candidate in Graduation or in Post-Graduation and B.Ed.

According to the petitioner, as candidates having less than 50% marks in Graduation were entitled to be appointed as teachers in Classes VI to VIII, accordingly, candidates having less than 50% marks in Graduation should also be permitted to teach students in Classes 1 to V.

The aforesaid contention of the petitioner cannot be accepted by the Court.

It is for the examination conducting body to fix up the minimum eligibility criteria for participation in the recruitment process. It is not open for an examinee to seek direction upon the examination conducting body for fixing the minimum educational qualification or for fixing the eligibility criteria. Candidates who fulfil the eligibility criteria are entitled to participate in terms of the recruitment notice. Candidates who do not meet the eligibility criteria cannot seek for a direction for changing the eligibility criteria according to their own qualification.

The petitioner admittedly does not possess the minimum eligibility qualification required for being appointed as primary school teacher.

No relief as prayed for by the petitioner can be granted in this 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 on completion of usual formalities.

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(Amrita Sinha, J.)