

16.02.2022
Item No.35
Crt. No.11.
KB

WPA 3157 of 2017

**Ali Mabood
-Vs-
State of West Bengal & Ors.**

(Via Video Conference)

Md. Yusuf Ali

... For the petitioner.

Mr. Supriyo Chattopadhyay

Mr. Sabyasachi Mondal

... For the State-respondents.

The grievance of the petitioner in the instant writ application is that the petitioner is having the qualification of Graduation. The petitioner is enrolled in the Exempted Category of land loser vide office Memorandum No. 809/LA dated October 31, 2006.

As the post of Assistant Teacher was lying vacant and the authorities intend to fill up the said post, but the name of the petitioner was not considered to appear in the interview for appointment to the said post. The petitioner along with others have preferred a writ application before the Co-ordinate Bench of this Court being WP No. 11678 (W) of 2007. Vide order dt. 18th June, 2007, an interim order was passed by directing the concerned respondent to permit the writ petitioners to appear at the interview for filling up the post of primary school teacher in the District of Malda as and when such

interview is going to be held by the said authorities, if he is otherwise eligible.

While passing the interim order, the Hon'ble Judge has clarified that the interim order will not create any equity in favour of the petitioner in getting the employment, and the same shall abide by the result of the writ petition.

In terms of the interim order passed by the Co-ordinate Bench of this Court, the petitioner was allowed to appear in the interview process and accordingly the petitioner had appeared in the interview and the name of the petitioner is figured at Serial No.48 of the list prepared by the authorities.

The writ petition being W.P. No.11678 (W) of 2007 was finally disposed of by the Co-ordinate Bench of this Court dated 13th May, 2010 by passing the following order:

“For those reasons, I approve the selection of the writ petitioners for the post of Assistant Teacher (Primary) and direct the respondent authorities to formalize such selection by an official appointment within a period of 4 weeks from the date of communication of this order.

The writ application is accordingly allowed. CAN is also accordingly allowed.

As far as production of certificates by the writ petitioners, that they, belong to the Exempted Category, is concerned, I make it clear that the writ

petitioners have to produce these certificate to the satisfaction of the said Malda District Primary School Council.

Therefore, subject to production of the said certificates that the writ petitioners belong to the Exempted Category to the satisfaction of the Council, there will be identical order as I passed in the case of Sagarika(Roy) Ghosh –vs- State of West Bengal & Ors (Supra) as follows:

For those reasons, I approve the selection of the writ petitioners for the post of Assistant Teacher(Primary) and direct the respondent authorities to formalise such selection by an official appointment within a period of 4 weeks from the date of communication of this order."

After the disposal of the writ petition dated 13th May, 2010, the Director of School Education, West Bengal had issued a letter wherein the name of five candidates have been approved for appointment out of nine candidates and the name of the petitioner was not considered.

The Chairman, District Primary School Council, Malda had sent a letter to the Director of School Education, West Bengal stating the fact that possibly due to inadvertent, the Director of School Education do not make any comments for the other three writ petitioners being nos. 10 (Md. Abdul Alim), No.11 (Ali Mabood) and

12 (Md.Safikuzzaman) through their case are quite identical with other approved writ petitioners.

The Chairman had directed the Director of School Education, West Bengal to take necessary action for the other three writ petitions whose name have been dropped from the approved list dated 23.11.2010.

After the letter issued by the Chairman, District Primary School Council, Malda, two persons namely Md. Asraf Ali and Abdul Alim have been given appointed but have not to issued the order of appointment to the writ petitioner.

As the writ petitioner was not appointed and accordingly the petitioner has made a representation to the Commissioner of School Education for taking appropriate steps for his appointment, but till date the representation is pending before the authority.

In view of the above the writ petition is disposed of by directing the Respondent No.2, the Commissioner of School Education, West Bengal to take appropriate steps for appointment of the petitioner in compliance of the order passed by the Co-ordinate Bench in W.P.11678 (W) of 2007 dated 13th May, 2010 and the recommendation made by Chairman within a period of four weeks from the date of communication of this order.

With the above observation, the WPA 3157 of 2017 is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Krishna Rao, J.)