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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A 4415 of 2021
(Via Video Conference)**

**Ramesh Kumar Prasad
-versus
The State of West Bengal & Ors.**

**Mr. Sudipta Dasgupta.
...For the Petitioner.**

**Mr. Malay Singh,
Mr. Rajaram Banerjee.
...For the State.**

**Mr. Anil Kumar Gupta.
...For UGC.**

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

Pursuant to the recruitment notification dated September 2016, the petitioner participated for being appointed as teacher of a primary school.

The petitioner relied upon the graduation certificate issued in his favour by the Sikkim Manipal University.

The petitioner was successful in the selection test and he was intimated to appear in the interview/aptitude test and scrutiny/verification to be conducted by the West Bengal Board of Primary Education on 11th December, 2016.

The petitioner duly participated in the said scrutiny/verification and interview/ aptitude test and emerged successful. He was requested to attend the counselling for appointment to the post of primary teacher and posting to be conducted by the District Primary School Council on 5th February, 2017.

On the said date, the petitioner was duly empanelled but the letter of appointment could not be issued in his favour and the same was withheld as the authority intended to verify the graduation certificate relied upon by the petitioner which was issued in his favour by the Sikkim Manipal University.

On scrutiny it transpired that the certificate relied upon by the petitioner was genuine and the qualification obtained by the petitioner from the Sikkim Manipal University was equivalent to the qualification mentioned for appointment in the post of primary school teacher.

By the time verification report in connection with the certificate of the petitioner was received by the West Bengal Board of Primary Education, D.O. No.11-15/2017-EE.10 dated 6th September, 2017 was issued by the Ministry of Human Resource Development, Department of Literacy and in terms thereof a restriction was imposed regarding appointment of untrained teachers after 10th August, 2017.

In view of the aforesaid restriction imposed by the Ministry of Human Resource Development, the respondents of the State were not able to issue the letter of appointment in favour of the petitioner.

Admittedly, the petitioner is an untrained candidate and pursuant to the recruitment notification dated September 2016, untrained candidates were eligible to participate and be appointed as primary school teachers.

Presently, it is the stand of the Board of Primary Education that consequent upon the restriction imposed by the Ministry of Human Resource Development, the Government of West Bengal has stopped all processes for appointment of untrained teachers and the West Bengal Primary School Teachers Recruitment Rules-2016 has been amended accordingly.

The plea taken by the State respondents for not issuing the appointment letter in favour of the petitioner cannot be appreciated by the Court.

Fact remains that the petitioner participated in the recruitment process which was initiated in the year 2016 when there was no restriction for appointment of untrained candidates as teachers of primary schools.

The petitioner participated in the recruitment process being an untrained candidate and eligible for participation for appointment as primary school teacher. He was successful in the selection. His name was empanelled and he was requested to join in the interview and later on in the counselling. It is at this stage that the authorities thought it fit to verify and scrutinise the testimonial and educational certificates relied upon by the petitioner.

The process of scrutinising was a time taking one and by the time the ultimate verification/scrutiny

report was received in favour of the petitioner, the restriction came to be imposed.

The restriction was certainly prospective in nature. As the process of selection of the petitioner started long prior to the restriction being imposed, accordingly, the said restriction ought not to stand in the way of the respondent authorities in issuing the letter of appointment in favour of the petitioner even though he is an untrained candidate.

The case of the petitioner is liable to be decided and guided by the Rules which were prevailing on the date of issuance of the recruitment notice and the consequent selection process. Any restriction imposed subsequent to the selection of the petitioner ought not to stand in the way of the respondent authorities in issuing appointment letter in favour of the petitioner. The right to obtain the appointment letter accrued in favour of the petitioner prior to imposition of the restriction.

Presently, the respondents are permitting untrained candidates to obtain the training so that they can perform their duty of teaching primary students properly and effectively.

The respondent authorities including the West Bengal Board of Primary Education and the Howrah District Primary School Council are directed to take necessary consequential steps for issuance of the letter of appointment in favour of the petitioner and to permit the petitioner to join the school. The petitioner shall also be permitted to undergo the training which is required at present.

The petitioner will, however, not be entitled to receive any financial benefit for the period prior to issuance of his letter of appointment and all financial benefits will be prospective in nature.

The embargo which has been imposed by the Ministry of Human Resource Development will not stand in the way of grant of any benefit in favour of the petitioner in his service career.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)