

04
14.03.2022
d.p.

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

**W.P.A 3818 of 2020
IA No. CAN 1 of 2021
CAN 2 of 2021
(Applications not in file)**

**Akter Hossain
-versus
State of West Bengal & Ors.**

**Mr. Golam Mastafa,
Mr. Tara Sankar Samanta.
...For the Petitioner.**

**Mr. Bhaskar Prasad Vaisya,
Mr. Mrinal Kanti Ghosh.
...For the State.
...For the DPSC, Purulila.**

**Mr. Shamim Ul Bari.
... For the DPSC, Malda.**

**Mr. Sujit Sankar Koley.
...For the Applicant
in CAN 1 of 2021 and
CAN 2 of 2021.**

The petitioner claims that he participated in the Adult Education/Non-Formal Education programme within 20th May, 2018 and he ought to be treated as an exempted category candidate and ought to be given preference at the time of appointment in the post of primary school teacher.

Learned advocate has categorically mentioned that the petitioner did not participate in the recruitment process. He merely intends to have the benefit of being treated in the exempted category.

The Labour Department, Government of West Bengal has published a notification being No. 301-EMP/1M-10/2000 dated 21st August, 2002 wherein it has been clearly mentioned that persons belonging to the family of Land Loser, Ex-Census Employees and Election job Workers/Enumerators will be treated as valid for determination of exempted category.

The prayer of the petitioner stood rejected by the Chairman, District Primary School Council, Malda. There is no apparent error in the said order.

The issue in question was earlier decided by this Court in W.P. No. 18032 (W) of 2009 (Samar Kumar Ghoshal & Ors. -vs- The State of West Bengal & Ors.) where the writ petition stood dismissed by a Coordinate Bench of this Court with cost assessed at 50 Gms. by order dated 22nd July, 2010.

A further order was passed by the same Coordinate Bench in June 2011 in W.P. No. 2562 (W) of 2011 (Piyara Khatun Bibi & Ors. -vs- The State of West Bengal & Ors.) and the said order passed by the Learned Single Judge stood affirmed by the Hon'ble Division Bench in MAT 1410 of 2011 with CAN 9188 of 2011 on 2nd August, 2012.

The petitioner being a participant of the Non-Formal Education Scheme/Adult Education Scheme cannot be given the benefit of being treated in the exempted category.

The writ petition fails and is hereby dismissed.

In view of the dismissal of the writ petition, the applications being CAN 1 of 2021 and CAN 2 of 2021 are also disposed of.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)