

02. 18.08.2022
BD Ct.15

W.P.A. 6559 of 2020

Abul Kalam Azad Ali Mondal & Ors.
-vs-
The State of West Bengal & Ors.

Mr. Sudipta Dasgupta
Mr. Bikram Banerjee
Mr. Arka Nandi
Ms. Dipa Acharyya
Mr. Sithirtha Nayek
... for the petitioners.

Mr. Satyadra Agarwal
... for the respondents
Nos. 6 to 9 (NIOS).

Mr. Sauvik Nandy
... for the NCTE.

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
... for the State.

Mr. Ratul Biswas
... for the Board.

Petitioners are untrained primary teachers working in the Government aided recognised primary schools in the State of West Bengal. As per the requirement of National Council for Teacher Education (for short "NCTE") these untrained petitioners are required to obtain diploma in elementary education within the cut off date that is 31st March, 2019 in order to fulfil criteria relating to educational qualification for manning the post of primary teacher in a Government aided recognised primary school. Accordingly, petitioners enrolled

themselves in diploma in elementary education course under National Institute of Open Schooling (for short “NIOS”). Though the petitioners completed the D.El.Ed Course within the aforesaid cut off date that is 31st March, 2019 as submitted by Mr. Dasgupta, learned advocate, representing the petitioners but they obtained information on the website of NIOS that they passed the said examination but the mark-sheets and the certificates of the said examination were not supplied to the petitioners since it has been notified on the website of NIOS that the petitioners were treated as ‘not certified’ (NC). It has been submitted on behalf of the petitioners that the reason for not treating the petitioners as D.El.Ed. qualified is that the petitioners did not obtain 50% marks in senior secondary (Class XII) examination. According to the requirement of NCTE for employment in the post of Assistant Teacher in primary school candidate has to obtain 50% marks in senior secondary (Class XII) examination apart from being D.El.Ed. qualified.

However, on behalf of the petitioners attention of this Court has been drawn to one notification dated 2nd August, 2022 issued by the Joint Director (CBC) wherefrom it appears that the NIOS has relaxed such requirement of obtaining 50% marks in senior secondary (Class XII) examination for the candidates who completed D.El.Ed. course under NIOS within 31st March, 2019 and who are in-service candidates.

On placing reliance on said notification dated

2nd August, 2022 it has been submitted on behalf of the petitioners that in view of relaxation which has been made by the concerned authority of NIOS it appears that the grievance of the petitioners stands redressed since in consideration of the relaxation now there is no impediment in treating the petitioners as D.El.Ed. qualified candidates. The said notification dated 2nd August, 2022 is taken on record.

Pursuant to the previous order passed by this Court on 12th August, 2022 today Mr. Satyendra Agarwal, learned advocate appears for NIOS. He has apprised this Court regarding applicability of various provisions under Right of Children to Free and Compulsory Education Act, 2009. However, it has been fairly submitted by Mr. Agarwal that since there is issuance of Notification dated 2nd August, 2022, now petitioners can be treated as D.El.Ed. qualified candidates provided they have completed the D.El.Ed. course within 31st March, 2019 and the candidates need to be in service.

National Council for Teacher Education, West Bengal Board of Primary Education and the State respondents are represented by the learned advocates.

Having considered the submissions made on behalf of the parties and on perusal of the Notification dated 2nd August, 2022 this Court also finds that in view of the relaxation granted in favour of the candidates who have completed D.El.Ed. course by 31st March, 2019 and who are

in service there is no requirement to obtain 50% marks in senior secondary (Class XII) examination for being finally declared as D.El.Ed. qualified candidates provided they have fulfilled the conditions as contained in the said notification dated 2nd August, 2022.

Accordingly, this Court directs the concerned authority of NIOS to take necessary steps for treating the writ petitioners as D.El.Ed. qualified candidates provided they have completed said course by 31st March, 2019 and being in-service candidates. The concerned authority of NIOS is further directed to supply mark-sheets and certificates of D.El.Ed. course as completed by the petitioners within a period of six weeks from the date of communication of this order. The petitioners, if provided certificates and mark-sheets by the concerned authority of NIOS on fulfillment of conditions as stipulated above, will be at liberty to approach the concerned respondent authorities for fixing their pay in accordance with law.

With the aforesaid direction the writ petition stands disposed of. However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)

