

June 27, 2022
ADSL 1
Court No.1
SG

WPA(P) 281 of 2022

Garden Reach Peace Movement
vs.
The State of West Bengal and others

Mr. A. Farmania, Advocate

... for the petitioner

Mr. S.N. Mookherjee, Id. AG
Mr. Samrat Sen, Id. AAAG
Mr. Anirban Ray, Id. GP
Mr. Nilotpall Chatterjee,
Mr. Rajat Dutta, Advocates

... for the State

By this public interest petition, the petitioner, who is stated to be a non-political organisation, has raised the grievance that in the public notification dated 27.05.2022 for recruitment to the post of constables and lady constables in Kolkata Police, the question papers are to be provided only in two languages i.e Bengali and Nepali.

The grievance of the petitioner is that since the question papers have not been provided in English language, therefore there is discrimination and violation of fundamental right.

Learned counsel appearing for the petitioner has referred to clause V(A) as also clause VI of the public notice which provides that the question papers for preliminary written test and final written test will be provided in two languages i.e. Bengali and Nepali. His submission is that in the earlier recruitment test in the year 2019, there was a provision for providing the question papers in three languages, hence, the English language could not have been excluded this year. In

support of his submission, he has placed reliance upon paragraph 17 of the judgment of the Hon'ble Supreme Court in the matter of *Principal, Mehar Chand Polytechnic and another vs Anu Lamba and others* reported in (2006) 7 SCC 161.

Learned Advocate General appearing for the State has opposed the petition, by questioning the locus of the petitioner and by submitting that there is no fundamental right to demand the question paper in a particular language. He has also pointed out that the last date of submission of the application was 27.06.2022 and that the petitioner has approached this Court belatedly without proper explanation. He has also submitted that the public notice in question provides for question papers in Bengali and Nepali languages on the basis of the Kolkata Police (Recruitment of Constables and Lady Constables) Rules, 2022 in West Bengal Official Language Act, 1961. He has also placed reliance on a Division Bench judgment of Allahabad High Court in the matter of *U.P. Urdu Development Organisation and another vs State of UP and another* reported in 2002 SCC OnLine All 1182.

Having heard learned counsel for the parties and on perusal of the record, it is noticed that learned counsel for the petitioner could not point out that the candidates have fundamental right to demand the question papers in a particular language.

Considering the similar issue in the matter of *U.P. Urdu Development Organisation (Supra)* wherein the cause

of Urdu language was espoused by the petitioner, it has been held by the Division Bench of Allahabad High Court that the petitioner had no fundamental right to insist upon the question papers to be provided in a particular language. That apart, learned Advocate General has pointed out Section 2 of the West Bengal Official Language Act, 1961 relating to language to be used for official purpose of the State which provides that in 3 hill sub-divisions of the districts of Darjeeling, Kalimpong and Kurseong, Bengali and Nepali languages and elsewhere the Bengali language shall be the official language of the State of West Bengal as referred to in Article 345 of the Constitution of India. The Proviso of Section 2 of the Act of 1961 states about the use of the English language in the examination conducted by the Public Service Commission, West Bengal. He has also produced a copy of the Kolkata Police (Recruitment of Constables and Lady Constables) Rules, 2022 and has pointed out that the recruitment process has been undertaken in terms of Rules and Rule 4(d) concerning the eligibility and relating to the language reads as under:

“(d) Language:

- (i) The applicant must be able to speak, read and write Bengali Language, provided that the provision will not be applicable to the persons who are permanent residents of hill sub-

divisions of Darjeeling and Kalimpong Districts.

- (ii) For the applicant of hill sub-divisions of Darjeeling and Kalimpong Districts, the provisions as laid down in the West Bengal Official Language Act, 1961 (West Ben. Act XXIV of 1961) shall be applicable.”

The constitutional validity of above rule has not been challenged in this petition.

He has also pointed out that the examinations in similar manner in local languages are conducted in other states i.e. Maharashtra, Tamil Nadu, Gujarat etc.

We also notice that if any candidate has grievance regarding the question papers being set in Nepali and Bengali languages, then the candidate concerned can very well approach the Court raising the grievance about discrimination but present petition is not at the instance of any candidate. That apart, it is the settled position in law that in service matters, PIL cannot be maintained.

Hence, in the aforesaid circumstances, we find no reason to interfere in the present petition.

Accordingly, the present petition is dismissed.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]