

31.01.2022
SL No. 22
Court No. 24
(P.M)

WPA 16452 of 2021

Smt. Nisha Kumari Jha
Vs
The State of West Bengal & Ors.
(Via Video Conference)

Mr. Supriyo Chattopadhyay
... for the petitioner

Mr. Bhaskar Prasad Vaisya,
Mr. Suman Dey
... for the State.

Mr. Ratul Biswas
... for the Board

Affidavit of service filed in Court in taken on record.

The order dated 23rd September, 2021 passed by the Secretary, West Bengal Board of Primary Education allegedly in compliance of the direction passed by the court on 27th July, 2021 in WPA 11566 of 2021 is under challenge in the instant writ application.

By the said order dated 27th July, 2021 the Court disposed of the writ petition with the hope and expectation that the West Bengal Board of Primary Education will treat the writ application as a representation of the petitioner and consider the same sympathetically.

The Court in its order dated 27th July, 2021 recorded that “after considering the rival submissions

of the parties, I think that a sympathetic consideration of this grievance and candid submission of the petitioner made before this Court is required to be considered keeping in mind the sense of deprivation that would overcast the mind of the petitioner for making a mistake against her own interest. By making such mistake she has been adversely affected, not favourably affected”.

The Secretary of the Board considered the prayer of the petitioner and rejected her prayer on the ground that the petitioner was required to furnish information several times under several fields in connection with her training qualification. The multiple entry system gave the petitioner several opportunities for referring back to her training qualification and correct the mistake, if any, before final submission of her online application.

The petitioner in the writ application has mentioned that she possessed D.EL.ED certificate prior to the issuance of the recruitment notification dated 23rd November, 2020.

She has mentioned that she has the eligibility criteria for consideration of her candidature for the post of Assistant Teacher in Primary School.

The petitioner has averred in the writ petition that for the purpose of filing the online application in

terms of the notification dated 23rd November, 2020 she went to a cyber cafe on 1st December, 2020 where she handed over the entire file to the data operator. The petitioner waited outside the cyber cafe while everything was being done by that person. After completion of data entry the petitioner was given a receipt on submission of the application form wherefrom she got to know that her qualification B.Ed was mentioned in the application form instead of D.El.Ed. She immediately pointed out the same and tried to rectify the mistake but there was no provision for rectification.

The petitioner on 6th January, 2021 made a representation before the Secretary of the Board praying for correction of the mistake.

The petitioner has averred in the writ petition that on 1st December, 2020 i.e. on the last date for filing the application she submitted her online application. The petitioner in her representation dated 6th January, 2021 mentioned that when she tried to deposit the fee for appearing in the interview, payment was not being received showing her candidature 'rejected'.

The submission of the petitioner in paragraph 18 that she pointed out the mistake of incorporating the B.Ed qualification instead of D.El.Ed qualification

immediately after filing the application on 1st December, 2020 is contrary to what has been stated in her representation dated 6th January, 2021.

The online application form which was filed by the petitioner specifies the details about her training qualification. The petitioner mentioned that she appeared in the final examination and her result was awaiting. The year of appearing/passing was 2020 and the course name mentioned was B.Ed. The name of the State was mentioned as West Bengal and the name of the University, West Bengal University of Teachers Training Education, Planning and Administration. The registration/enrolment number, roll/enrolment number was also mentioned.

It appears from the application filed by the petitioner online that she referred to her B.Ed instead of her D.EL.Ed as her training qualification.

It does not appear that the same was a bona fide mistake or mistake simpliciter on her part in mentioning B.Ed qualification in the application form.

The recruitment notice published by the West Bengal Board of Primary Education mentions the eligibility qualification for recruitment of primary teachers.

It mentions that the candidate shall possess minimum educational and training qualification as

prescribed by NCTE prevailing as on the date of the publication of the recruitment notification.

It appears that the petitioner deliberately intended to incorporate her B.Ed qualification instead of D.El.Ed and that is the reason the details in respect of her B.Ed qualification was mentioned in the online application. Had it been a mistake simpliciter, then only the name of the course would have been wrongly written. There is no mention in the application form about D.El.Ed qualification obtained by the petitioner.

The Court in the earlier writ petition, in the order dated 27th July, 2021, clearly mentioned that the petitioner's case was that while filing the online application she filed the same with a little mistake in respect of the course name. She is a D.El.Ed passed candidate but mistakenly in the online application she has stated the course name is B.Ed.

It appears that the petitioner, for reason best known to her, tried to portray her B.Ed qualification rather than D.El.Ed qualification.

The candidature of the petitioner got rejected as she failed to show, from her online application form, that she possess D.El.Ed qualification.

The respondent Board sympathetically considered the prayer of the petitioner and has refused

to grant an opportunity to the petitioner to rectify her training qualification.

The petitioner has declared in her application form that all statements made in the application are true and correct and to the best of her knowledge and belief. She has also declared that in the event any of the information being found to be false or incorrect her candidature is liable to be cancelled and appropriate legal action be initiated against her. The declaration further mention that the eligibility shall be finally verified by the recruiting agency/appointing authority and if she is found to be ineligible her candidature for recruitment shall be cancelled.

The petitioner at this stage is trying to shift the burden of incorporating wrong details in the application form upon the Data Entry Operator who incorporated the data at the time of filing of the application form. It is quite certain that the said information was incorporated upon taking instruction from the candidate concerned. The Date Entry Operator could not have independently incorporated data without the permission, knowledge or consent of the petitioner.

Assuming that the entry was made wrongly by the Date Entry Operator, the petitioner ought to have approached the authorities immediately after she filed

the application on 1st December, 2020. She made a prayer for rectification on 6th January, 2021 after her candidature stood rejected by the Board.

The reason given by the Secretary of the Board for rejecting the prayer of the petitioner does not appear to be an erroneous one.

The Court is not inclined to interfere in this matter.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)