

22.04.2022
SL No. 4
Court No. 24
(P.M)

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

WPA 22609 of 2019

**Phuleswari Saha
Vs
The State of West Bengal & Ors.**

Mr. Mohinoor Rahaman,
Ms. Maria Rahaman
... for the petitioner

Mr. Supriyo Chattopadhyay,
Ms. Iti Dutta
... for the State

Mr. Bhaskar Prasad Vaisya,
Mr. Pinaki Bhattacharyya
... for DPSC North 24 Parganas

The petitioner participated in the recruitment process of primary school teachers conducted by the District Primary School Council, North 24-Parganas in the year 2016 as an EC category candidate. Her candidature was cancelled on the ground that she worked as Census Worker only for fifty seven days.

The Chairman in-Charge, District Primary School Council, North 24-Parganas referred to the Government Notification No. 301-EMP dated 21st August, 2002 and was of the opinion that an Ex-Census employee who worked in connection with

1981 Census operation and who had put in at least six months of services, will be treated as EC category candidate. As the petitioner did not complete six months in service, accordingly, her candidature in the Ex-census category was cancelled.

The petitioner is aggrieved by the same.

Notification No. 301-EMP has been placed in Court.

It appears that paragraph No. 4 (b) of the said Notification refers to candidates, who may be treated as Ex-Census employee, in respect of 1991 census operation.

It mentions that Ex-Census Enumerators/ Supervisors of 1981 Census Operation and 1991 Census Operation holding authentic "Experience Certificate" issued by the Directorate of Census Operations, West Bengal or any other competent authority duly authorized by the said Directorate will be treated as exempted category candidate.

The petitioner has annexed the identity card issued in her favour as Ex-Census 1991 candidate and has also annexed a certificate dated 8th January, 2001 issued by the Census Charge Officer in favour of the petitioner certifying that the petitioner performed work as enumerator in the Enumeration Block in respect of the Census of India 1991.

According to the petitioner, as she performed work in the year 1991 census operation and she has necessary experience certificate issued by the competent authority, she ought to be treated as Ex-Census -1991 candidate.

The petitioner has also relied upon the Notification being No. 303-EMP dated 21st August, 2002 wherein it has been mentioned that the Director of Employment, West Bengal will maintain the list of eligible persons of the category on the basis of enrolment in the Exempted Category Cell of the Directorate of Employment.

Learned advocate representing the respondents opposed the prayer of the petitioner. It has been submitted that the petitioner cannot be treated as Ex-Census candidate as she performed only 57 days of work. According to the respondents minimum requirement of work is 240 days.

It has been submitted that 240 days of work cannot be equated with only 57 days of work.

The Court in W.P. No. 10809 (W) of 2011 in the matter Zakir Hossain – Vs – The State of West Bengal & Ors., by an order dated 6th September, 2011, held that when the concerned employment exchange has registered the name of the petitioner under the ex-census category, it is the concerned employment

exchange alone which can doubt the eligibility of the petitioner of being so empanelled; for it is the concerned employment exchange which has empanelled the petitioner upon scrutiny of his particulars and it is not within the competence of the Council or for that matter any other authority of the State to doubt such competence of the concerned employment exchange.

In the present case, the petitioner does have a certificate issued by the concerned employment exchange wherein the name of the petitioner has been registered under the Ex-Census category. The Council cannot raise any doubt with regard to the competence of the employment exchange in registering the petitioner as Ex-Census candidate. The Council is bound to act in accordance with the identity card which has been issued in his favour by the employment exchange.

It was improper on the part of the Council to reject the candidature of the candidate only by holding that she did not perform work for at least six months. The Council failed to appreciate that six months' work was required only for the purpose of 1981 census operation. The petitioner, being 1991 census operation enumerator, was only required to

produce an authentic experience certificate issued by the competent authority.

As the petitioner does possess the experience certificate and as the petitioner has already been registered as Ex-Census candidate by the competent authority, the Council is bound to treat the petitioner as Ex-Census candidate.

The opinion expressed by the Chairman in-Charge, District Primary School Council, North 24-Parganas in the order dated 6th February, 2018 is set aside and quashed.

In view of the above, the instant writ petition is disposed of by directing the Chairman, North 24-Parganas District Primary School Council to treat the petitioner as Ex-Census candidate and take consequential steps in the matter strictly, in accordance with law, at the earliest, but positively within a period of eight weeks from the date of communication of a copy of this order.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)