

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.19743 of 2021

Madhusudan Dash & others **Petitioners**

Mr. Purusottam Chuli, Advocate

-versus-

State of Odisha & others **Opp.parties**

Mr.S.S. Rao, Advocate for O.P.No.3

*Mr. P.K.Panda, Standing Counsel for the School
and Mass Education Department for O.P.Nos.1 and 2.*

**CORAM:
JUSTICE M.S.SAHOO**

ORDER

24.06.2022

Order No.

- 10.** 1. This matter is taken up through hybrid mode.
2. Learned counsel for the petitioner submits that the writ petition is covered and can be disposed of in terms of the order dated 11.04.2022 passed in W.P.(C) No.20309 of 2021 along with I.A. No.1146 of 2022.
3. Learned counsel for opposite party nos. 1 & 2 and opp.party no.3-BSEO also agree to the said submission of the learned counsel for the petitioner.
4. The order dated 11.04.2022 passed in W.P.(C) No.20309 of 2021 is quoted herein:

"I.A. No. 1146 of 2022

1. *This matter is taken up by hybrid mode.*
2. *When the matter was taken up on 4.4.2022, considering the I.A. No.1146 of 2022, particularly the notification dated 12.1.2022 annexed as Annexure-A to the I.A. and submissions of the learned counsel for the petitioner as well as the learned counsel for the Board of Secondary Education, the following order was passed :*

- "1. This matter is taken up by hybrid mode.*
- 2. The I.A. has been filed with the following prayer :*

“to modify the interim order dated 16.7.2021 to the extent directing the opposite parties particularly opposite party no.3 to open the sealed cover and publish the result of the petitioner with respect to OSSTET 2021 Examination for Physical Education Teacher keeping in view the Corrigendum No.775/SME dated 12.01.2022 under Annexure-A otherwise the petitioners shall be seriously prejudiced.”

3. Pursuant to the earlier notice issued to the O.P. No.3-Board of Secondary Education, the Board has appeared and filed their counter, inter alia, stating that in view of specific notification/circular by the School & Mass Education Department No. 18618/SME dated 17.9.2016 regarding eligibility criteria for appearing the Odisha Secondary School Teacher Eligibility Test (OSSTET) Examination, the guidelines issued by the Board for the said Examination (Annexure-4) provides at paragraph-5C col.7 as under :

Sl.No.	Category	Subject/Stream	Academic and Professional qualification
7	II	Physical Education Teacher	1. +2 or its equivalent examination from a recognized institution with minimum 50% marks in aggregate (45% for SC/ST/PH/SEBC) candidates). AND 2. C.P.Ed./B.P.Ed. from a recognized Board/University.

4. It is submitted by learned counsel for the petitioners that since by notification dated 12.1.2022 (Annexure-A), the Government of Odisha, School & Mass Education Department has omitted criteria “with a minimum 50% marks in aggregate”, nothing would remain to be adjudicated in the present writ petition as it has challenged only the said minimum percentage of marks prescribed as an eligibility criteria.

5. Learned Standing Counsel appearing for School & Mass Education Department submits that he has received copy of the aforesaid I.A. and in any event does not dispute issuance of the notification dated 12.1.2022 (Annexure-A).

6. In considered view of this Court, since the Government in the Department of School & Mass Education has modified the notification No. 18618/SME dated 17.9.2016, nothing remains to be adjudicated in view of the stand taken by the O.P. No.3 that they have only implemented the notification of the Government dated 17.9.2016 (as it stood prior to the modification by notification dated 12.1.2022).

7. It is submitted by learned counsel for O.P. No.3 that a short adjournment may be granted to obtain up-to-date instruction.

8. To grant another opportunity to the O.P. No.3, list on 11.4.2022.

9. Copy of the order be uploaded in the official website of the Court.”

3. Learned counsel for the petitioner reiterates the submissions that since they have appeared at the examination pursuant to the interim order of this Court dated 16.7.2021 and the results have not been published as they had secured minimum 50% in aggregate in +2/equivalent examination.

4. Learned counsel for the Board of Secondary Education referring to the said notification dated 12.1.2022, fairly submits that there cannot be any two opinions regarding the fact that the corrigendum has omitted the words “with a minimum 50% marks in aggregate”.

5. It is further submitted that the omission of the said orders may not be interpreted to the extent that all candidates who have not yet applied also can claim the reliefs as prayed for in the present writ petition.

6. Having heard learned counsel for the parties, this Court is of the view that the order that is to be passed in

the present writ petition has to be confined to the facts and circumstances of the present case and the similar cases filed earlier and pending.

7. Learned counsel for the petitioner submits that the result of the examination that was conducted by the opposite party-Board, may be published in view of the subsequent omission of the percentage of marks as indicated in the notification dated 12.1.2022.

8. In considered view of this Court, nothing would survive for adjudication in the present case. The BSEO shall go ahead in publishing the result in view of the corrigendum dated 12.1.2022 as expeditiously as possible for the fact that the candidates of the examination are awaiting publication of result which has been published earlier and the results are required for getting appointment.

9. It is also observed that if ultimately opposite party-BSEO finds that the petitioners have passed the examination, the subsequent follow up action like issuance of mark sheets, certificates etc shall also be done expeditiously considering the time already spent and requirement of the candidates to produce the certificates before the authority for employment.

10. The writ petition is disposed of with the above observations.”

5. Accordingly, the present writ petition is to be disposed of in terms of the order dated 11.04.2022 as quoted above.

It is reiterated that the BSEO shall go ahead in publishing the result in view of the corrigendum dated 12.1.2022 as expeditiously as possible for the fact that the candidates of the examination are awaiting publication of result which has been published earlier and the results are required for getting appointment.

It is also observed that if ultimately opposite party-BSEO finds that the petitioners have passed the examination, the subsequent follow up action like issuance

of mark sheets, certificates etc shall also be done expeditiously considering the time already spent and requirement of the candidates to produce the certificates before the authority for employment.

The writ petition is disposed of with the above observations.

Copy of the order be uploaded in the official website.

Urgent certified copy of the order be granted on proper application.

(M.S.Sahoo)
Judge



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