

Court No. 17

WPA 15440 of 2021

31.03.2023

(AD 2 & 3)

(S. Banerjee)

Kakali Kar Biswas

Vs.

The State of West Bengal & Ors.

with

WPA 1047 of 2020

Mr. K. M. Hossain

Mr. Ratan Das

... for the petitioner

Mr. Supriyo Chattopadhyay

Mr. Pinaki Dhole

Mr. Pinaki Bhattacharya

... for the State (in WPA 1047 of 2020)

Mr. B. P. Vaisya

Mr. Gourav Das

... for the DPSC, South 24 Parganas

In these two matters, being WPA 15440 of 2021 and WPA 1047 of 2020, three petitioners are before this court. WPA 15440 of 2021 has been filed by one Kakali Kar Biswas and WPA 15440 of 2021 has been filed by one Rita (Jana) Manna and Biswajit Kayal.

Learned advocate for the petitioners (the same advocate for all of them) has submitted that all of them stand on the same footing.

From one reasoned order passed in compliance with this court's order dated 15.12.2022, passed by the Principal Secretary, School Education Department, the following two paragraphs are required to be quoted:

“3) A hearing was fixed on 20.01.2023, where the District Inspector of Schools (PE), South 24 Parganas as the Secretary, DPSC, 24 Parganas (South) and the Ld. Advocate of the Petitioner were present. However, owing to the incomplete report of DPSC, 24 Parganas (South) the hearing couldn't be completed. Accordingly, an Interim Order vide Memo No. 145-SE(LAW) dated 27-01-2023 was passed that stated *“Accordingly, DPSC, (South 24 Parganas) shall re-submit report in appropriate manner for enabling the undersigned to consider the representation of the petitioner, in the light of the judgment referred above.”* Further date of hearing was fixed on 27.01.2023.

Subsequently, the Chairman, DPSC 24 Parganas (South) submitted a clarificatory report vide Memo No. 365-L/DPSC/S 24Pgs dated 24-01-2023 stating the followings:

“In continuation of my earlier reply dated 06.01.2023 vide Memo No. 23(L)/DPSC/S24Pgs., this is to inform you that as per office record the cut-off marks for appearing in written test for Unreserved category was 34.7389. But the petitioner herein belonging to UR category obtained 31.7778 marks which is below the lowest cut off marks for being eligible in the written test.

*In compliance with the order of the Hon'ble Supreme Court dated 24-01-2019 passed in the matter of Amina Khatun & Ors. Vs Birbhum DPSC & Ors., after allowing weightage of 22 marks for one year PTT the petitioner's score became 46.1327, rounding off to 46.133 $(400/900*65+1044/1600*22)$ which is more than the cut off marks for appearing in the written test which was held in the year 2009-*

2010 in pursuance to what was begun in the year 2006. The petitioner, owing to the score after allowing weightage for PTT was eligible for written test, if she was allowed to appear at that point of time. However, whether the petitioner may now be allowed to appear for the written test may be considered.

Now your kind instruction is highly solicited.”

“8) Having considered the facts of the case, the reports of the DPSC, 24 Parganas (South), opinion as submitted by the Law Branch of the School Education Department and in the light of the order of the Hon’ble Apex Court dated 24-01-2019 read with Hon’ble Apex Court order dated 21-10-2019 and order of the Hon’ble High Court, Calcutta passed in the instant writ petition dated 15.12.2022 the undersigned has come to the conclusion that the Petitioner should be given an opportunity to participate in the written test by the DPSC, 24 Parganas (South). The Chairman, DPSC, 24 Parganas (South) being the competent authority is directed to revisit the recruitment process pertaining to the petitioner as per extant Recruitment Rules prevalent at that point of time. The Chairman, DPSC, South 24 PGS is hereby directed to allow the petitioner to appear at the written test afresh and prepare a modified score sheet for her only after putting marks to be obtained by the petitioner in the said written test. Thereafter the Chairman will send the said recast panel to the Commissioner of School Education, West Bengal for approval

as per law and take consequential steps, if any, thereafter.”

On perusal of the said reasoned order and after considering the said reasoned order, I direct the concerned DPSC to hold the written examination for this three writ petitioners named above by two weeks from date where these three petitioners will appear. The result of the written test is to be declared by two weeks thereafter. If the petitioners are qualified after the said written examination, further steps are to be taken by two weeks thereafter by the concerned DPSC to recommend the petitioners in any school for their appointment.

Learned advocate for the DPSC submits that before such recommendation, approval of the Commissioner of School Education would be required.

Therefore, I direct the Commissioner of School Education, being the respondent no. 2 herein, to grant approval to the appointment of the petitioners so that they do not suffer further injustice due to delay in getting the appointment.

With the above observations and directions, these two writ petitions are allowed.

The reasoned order passed by the Principal Secretary, School Education Department dated 21.02.2023 is kept on record.

This order has been passed in presence of the learned lawyers of the parties. The concerned DPSC shall act on the basis of the communication of their learned advocate who has heard the order passed by this court.

(Abhijit Gangopadhyay, J.)