

MAT/258/2022

SUJATA SAHA AND ORS
VS
STATE OF WEST BENGAL AND
ORS.

IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022

With 4

MAT/259/2022

SUJATA SAHA AND ORS
VS
STATE OF WEST BENGAL AND
ORS.

IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022
IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022

With 5

MAT/260/2022

SUJATA SAHA AND ORS
VS
STATE OF WEST BENGAL AND
ORS.

IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022
IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022

With 6

MAT/261/2022

SUJATA SAHA AND ORS
VS
STATE OF WEST BENGAL AND
ORS.

IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022
IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022

With 7

MAT/264/2022

SUJATA SAHA AND OTHERS
VS
STATE OF WEST BENGAL AND
ORS.

IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022
IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022

With 8

MAT/265/2022

SUJATA SAHA AND OTHERS
VS
STATE OF WEST BENGAL AND
ORS.

IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022
IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022

With 9

MAT/266/2022

SUJATA SAHA AND ORS
VS
STATE OF WEST BENGAL AND
ORS.

IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022
IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022

With 10

MAT/267/2022

SUJATA SAHA AND OTHERS
VS
STATE OF WEST BENGAL AND
ORS.

IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022
IA NO: CAN/1/2022, CAN/2/2022, CAN/3/2022

With 11

MAT/434/2018

MENOKA MUNDA BISAI & ORS
VS
STATE OF WEST BENGAL & ORS

IA NO: CAN/4/2019(Old No:CAN/12760/2019),
CAN/5/2022, CAN/6/2022
IA NO: CAN/4/2019(Old No:CAN/12760/2019),
CAN/5/2022, CAN/6/2022

Mr. Arunava Banerjee
Mr. Arghya Chakrabarti
Mr. Debdip Adhikari
Mr. Kousik Sahoo
Sk. Qareeb

... for the Appellants

Mr. Bhaskar Prasad Vaisya
Mr. Sk. Md. Masud

... for the State

Mr. Arobindo Chatterjee
Mr. Ranjan Saha

... For the DPSC Paschim Medinipur

Mr. Tulsi Das Maiti
Mr. Pradip Kumar Ghosh

... for the Private Respondents in
MAT 258 of 2022, MAT 259 of 2022,
MAT 260 of 2022, MAT 264 of 2022,
MAT 265 of 2022, MAT 266 of 2022,
MAT 434 of 2018

Mr. Partha Banerjee
Mr. Kuntal Banerjee

... for the Private Respondent in
MAT 261 of 2022, MAT 267 of 2022
MAT 434 of 2018

Party/Parties is/are represented in the order of
their name/names as printed above in the cause title.

The appellants' case is that they participated in the
selection process for appointment as Primary School
Teachers in the Schedule Caste (SC) Category in 1996,
conducted by the District Primary School Council under the
then undivided District of Medinipur.

The primary contention raised by the appellants is
that 56 posts belonging to the SC category have been allowed
to be filled up by the General Category candidates. Therefore,

the General Category candidates were appointed in place and stead of SC category candidates.

The appellants claim to belong to the SC category candidates.

Mr. Banerjee, Learned Counsel appearing for the appellants, submits that they have been fighting their legal battle since long. The appellants have prayed for setting aside the illegal appointments given to the 56 number of General Category candidates, which were earmarked for the SC category candidates and their appointments in place and stead of General Category Candidates.

The appellants succeeded before the First Hon'ble Single Bench in CO 5137(W) of 1996. The First Hon'ble Single Bench *vide* its Order dated December 14, 2012 set aside the appointments of 56 General Category candidates.

Upon the said Order of the First Hon'ble Single Bench being carried in appeal, the First Hon'ble Division Bench by its Judgment and Order dated February 21, 2014 in MAT 278 of 2013 along with the other appeals was, *inter alia*, pleased to direct *verification of the records of the 56 candidates*.

The matter arrived before the Hon'ble Apex Court.

The Order dated February 21, 2014 passed by the First Hon'ble Division Bench was affirmed. The First Hon'ble Division Bench directed upon verification of records of the 56 candidates and subject to satisfaction of their caste, the 56 appointments may be confirmed by the authorities

concerned.

Pursuant to the orders of the Hon'ble Apex Court and the Benches of this Hon'ble Court, the Order dated July 27, 2016 was passed by the Chairman, Paschim Medinipur District Primary School Council (for short, PMDPSC). By the said Order dated July 27, 2016, the appointments of 12 teachers were cancelled.

The said Order passed by the Chairman, PMDPSC, was challenged in the present writ petition being WP 16313(W) of 2016.

By the Order dated January 11, 2018 passed by the Hon'ble Single Judge, the order of the Chairman, PMDPSC was set aside/quashed/cancelled. The said order dated January 11, 2018 is impugned in the present appeals.

The Commissioner of School Education, West Bengal filed a Report dated August 19, 2017 wherein it was recorded that the verification exercise was conducted by the Chairman, PMDPSC and a panel was re-casted in terms of the prevalent recruitment rules. The Chairman, PMDPSC stated that it would be difficult to verify the testimonials of all the 56 candidates pursuant to the directions of the First Hon'ble Division Bench in the absence of the records by the then appointing authority, DPSC, Medinipur which is now divided to Paschim Medinipur District Primary School Council and Purba Medinipur District Primary School Council.

The Chairman also took into consideration of the fact

that the appointees/56 candidates were working for a long period and were scattered over both the Districts of Purba and Paschim Medinipur.

Therefore, the entire exercise as directed by the First Hon'ble Division Bench was not complied with in totality by the Chairman.

By an Order dated May 11, 2023, this Court was *prima facie* of the view that the concerned respondents being the Commissioner of School Education assisted by the District Primary School Council being Purba and Paschim Medinipur were not able to satisfactorily explain the reasons for not conducting the verification exercise of all the candidates.

Therefore, this Court permitted the appellants to supply their individual roll numbers to the Learned Advocates appearing for the District Primary School Council, Medinipur, which was the then appointing authority.

Upon receipt of the roll numbers, the DPSC, Paschim Medinipur were required to place all the documents relating to the cut-off marks in respect of the SC category candidates. The Council was also required to produce the Merit List with respect of the cut-off marks of each of the appellants up to the 56th SC category candidate.

By an Order dated June 22, 2023, this Court also directed the Assistant Inspector of Schools (AI) to bring the original records for verification of the marks of the appellants, who are 16 in number.

Mr. Banerjee was permitted to supply the roll numbers of all the 16 appellants to Mr. Chatterjee, Learned Counsel appearing on behalf of the respondent authority. The Written Instruction was handed over earlier in Court by the Secretary, PMDPSC dated June 21, 2023. The said Written Instruction was retained with the record.

Upon perusal of the original records produced in Court by AI, it transpired that out of the 16 candidates, records were untraceable in respect of only one candidate i.e., Sri Subhas Chandra Das. His name appeared in Sl. No. 14, 281 of the Original Register. However, the names of the other candidates did not appear in the said Register. The Serial Numbers provided by Mr. Banerjee did not tally with the Serial Numbers in the Original Register except for 4 appellants. Out of the said four only one appellant Subhas Chandra Das appeared in the interview.

This Court had the occasion to personally verify the documents produced in Court by the AI. The names of the appellants apart from four appellants did not match with the names of the candidates whose serial numbers were produced by Mr. Banerjee. The appellant no.2 in MAT 258 of 2022 was the only candidate who appeared in the interview. Unfortunately his records are purportedly lost by the authorities.

Considering the submissions of the parties and the materials placed on record, this Court is of the view that most of the Appellants have not been able to show their *locus*

standi in filing the writ petition and also in preferring the Appeal. A Writ Court cannot allow roving enquiry of this kind.

This Court is constrained to hold that without appearing for the interview and without being given the Admit Cards, most of the writ petitioners/Appellants have filed the writ applications challenging the decision of the Respondents concerned in purportedly giving the appointments to the 56 General Category candidates in the SC Category. Such stand of the writ petitioners/the appellants cannot be appreciated by this Court.

In such view of the matter, the appeals being **MAT 258 of 2022, MAT 259 of 2022, MAT 260 of 2022, MAT 261 of 2022, MAT 264 of 2022, MAT 265 of 2022, MAT 266 of 2022, MAT 267 of 2022** and **MAT 434 of 2018** along with the connected applications are **dismissed** with costs assessed at Rs.10,000/- to be paid severally by each of the Appellants. The said costs will be paid by each of the appellants to the State Legal Services Authority within a period of one month from the date of this Order.

In the event, the said costs are not paid within the stipulated period, the District Magistrates, respectively of Purba and Paschim Medinipur shall recover the said costs from the appellants under the Bengal Public Demands Recovery Act and forward the same to the State Legal Services Authority within a period of one month from the date of communication of this Order by the **Registrar General**, Appellate Side of this Hon'ble Court, who will take steps for

communicating the same after expiry of one month from date, in the event the costs are not paid.

It is not lost to the mind of this Court that the appellant no.2 in MAT 258 of 2022, being Subhas Chandra Das, was a candidate, who admittedly appeared in the interview but his records are lost. The Appellant no.2 will not be required to pay any costs.

In the event, the Appellant no.2 is found to meet the eligibility criteria of obtaining the cut-off marks of 30%, the Appellant no.2 in MAT 258 of 2022 will be given appointment subject to compliance of the formalities within three months from the date of this order.

In the event, the records of the said Appellant cannot be traced out within a period of three months, he will be given the benefit of doubt and will be appointed subject to compliance of the formalities. The appointment of the appellant no.2, if granted, shall be on the same terms and conditions of the candidates, who were appointed earlier. The Appellant no.2 will be entitled to receive the notional benefits from the date on which the 56 General Category Candidates were appointed.

After dictation of the Order it was submitted on behalf of Menoka Munda Bisai, Appellant No.1 in MAT 434 of 2022 has already been given appointment and she has erroneously preferred the appeal. The said stand of Appellant No.1 in MAT 434 of 2022 is not appreciated. However, in view of the admitted position she will be exempted from paying of costs.

All parties to act on a server copy of this order duly obtained from the official website of the Hon'ble High Court, Calcutta.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Lapita Banerji, J.)

(Subrata Talukdar,J.)