

Court No. 8

MAT 468 of 2023

12.09.2023

(AD 7)

(S. Banerjee)

Palash Sarkar

Vs.

The State of West Bengal & Ors.

with

CAN 1 of 2023

Mr. Robiul Islam
Mr. Raju Mondal
Mr. Nepesh Majhi

... for the appellant

Mr. Arindam Chattopadhyay

... for the DPSC, Nadia

Mr. Sauvik Nandy

... for the NCTE

Mr. Subir Sanyal
Mr. Ratul Biswas
Mr. Kaushik Chowdhury

... for the WBBPE

The appeal is arising out of order dated 7th February, 2023 in which the writ petitioner has challenged the refusal on the part of the West Bengal Board of Primary Education to accept the B.Ed mark-sheet obtained under Shiksha Shastri in 2015. The dispute arose whether one-year B.Ed. course under the Himachal Pradesh University could be recognized for consideration as an eligibility for appointment as a teacher of a primary school.

Mr. Sauvik Nandy, learned counsel appearing for the NCTE, has filed a report wherefrom it appears that Rashtriya Sanskrit Sansthan, Himachal Pradesh was

recognized on 3rd March, 2014 by NCTE for conducting B.Ed. (Shiksha Sashti course) of secondary level and one year duration for the academic session 2014-15. This document was placed at the time of hearing. It further appears that a communication was made to the West Bengal Board of Primary Education by the Regional Director of NCTE communicating the said decision. The Board was duty-bound to accept the recognition granted by the NCTE for the academic session 2014-15 and could not have taken a contrary view or refused to accept the said certificate on the ground that it is less than two years. This aspect of the matter appears to have not been considered by the learned Single Judge in deciding the writ petition.

However, in 2023 INSC 704 (Civil Appeal No. 5068 of 2023, Devesh Sharma Vs. Union of India & Ors. decided on 11th August, 2023) the Hon'ble Supreme Court has observed that by including B.Ed. as a qualification for teachers for primary schools, the school has acted against the provisions of the Constitutional laws and it is not a required qualification for being considered as a teacher of a primary school.

If the candidature of the petitioner were considered in 2015 itself with the B.Ed. qualification which was held to be acceptable in view of the clear mandate of the NCTE, the candidature of the writ petitioner could have been considered for the post of a

teacher in a primary school subject to fulfillment of other criterion. The only consideration for which it was denied appears to be the duration of the course which, according to the Council, should be of two years. The decision of the Council in not accepting the said certificate as recognized by NCTE, in our view, was absolute flawed as the Council cannot take a decision contrary to the mandate of NCTE. However, having regard to the changed circumstances when the B.Ed. certificate held to be not valid any more for being considered as a teacher in a primary school, we direct the West Bengal Board of Primary Education to consider the candidature of the petitioner for the 2020 recruitment process, if he is otherwise eligible, with relaxation of age bar as we are of the view that had it been considered in the year 2015, the petitioner would have a chance to stand.

The order impugned is set aside.

The appeal along with the connected application is disposed of with the aforesaid observation.

(Soumen Sen, J.)

(Siddhartha Roy Chowdhury, J.)