

09.06.2023

**FMA 860 of 2022
With**

CAN 1 of 2022

**The District Primary School Council North 24
Parganas & Anr.
-Vs-
Tapas Singh & Ors.**

Mr. Bhaskar Prasad Vaisya
Mr. Pinaki Bhattacharyya ... for the Appellants

Mr. Manoj Kumar Roy
... for the Respondent No.1

Mr. Supriyo Chattopadhyay
Ms. Sayantanee Bhattacharjee
... for the State-respondents

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

The short question which has arisen for
consideration in this appeal arises out of the delayed
submission of Scheduled Tribe (ST) Certificate by the
writ petitioner/the respondent no.1 to this appeal
while appearing for selection as a Primary Teacher in
2009 under the District Primary School Council
(DPSC), North 24 Parganas.

Mr. Vaisya, Learned Senior Counsel appearing
for the appellant/DPSC with Mr. Bhattacharyya,
Learned Counsel, points out that the Hon'ble Single
Bench failed to appreciate that the last date for
submission of the ST certificate by the writ petitioner
as specified by the recruitment notice for 2009 was the

12th of June, 2010.

Since admittedly the writ petitioner obtained his Certificate on the 25th August, 2011, i.e. after the last cut off date, his application to be treated as a ST candidate could not be processed.

Per contra, Mr. Roy, Learned Counsel appearing for the writ petitioner/the respondent no.1, submits that the Hon'ble Single Bench has taken note of the fact that the writ petitioner/the respondent no.1 had applied for ST Certificate on the 2nd of December, 2009, i.e. prior to the cut off date. It is not the fault of the writ petitioner that the writ petitioner obtained the ST Certificate ultimately from the concerned State Authority on the 25th August, 2011.

However, both the written examination and the interview to the present selection were delayed and held subsequently pursuant to the intervention by the Hon'ble High Court. At the subsequent selection stage, the writ petitioner was issued a fresh Admit Card where his ST status was clearly mentioned. It is submitted that the writ petitioner also carried his ST Certificate at the time of scrutiny during written test and interview.

Mr. Roy, Learned Counsel, heavily relies on the authority of the Hon'ble Apex Court as reported in [(2016) 4 SCC 754, (*In Re.: Ram Kumar Gijroya -vs- Delhi Subordinate Services Selection Board & Anr.*)] .

Mr. Roy submits that the decision of the Hon'ble Apex Court is clearly binding on the point that once a candidate belongs to the Scheduled Caste or Scheduled Tribe or Other Backward Classes, such status of the candidate does not change from the birth and, in the spirit of the reservation process envisioned by the Constitution and interpreted by the decisions of the Hon'ble Supreme Court *qua* reserved category candidates who have otherwise been declared successful in their respective categories, should be followed as a constitutional goal.

This Court notices that in *Ram Kumar Gijroya (supra)* the OBC certificate was submitted by the candidate subsequently. In the light of the principles as laid down in *Ram Kumar Gijroya (supra)*, the OBC Certificate, although subsequently submitted, was allowed to be acted upon by the recruiting authority.

This Court is also taken to the decision impugned of the Hon'ble Single Bench dated 31st March, 2022, which takes judicial notice of *Ram Kumar Gijroya (supra)*.

Having heard the parties and considering the materials placed, this Court finds no reason to interfere with the Judgment and Order of the Hon'ble Single Bench having regard to the principles enunciated in *Ram Kumar Gijroya (supra)*.

Accordingly, **FMA 860 of 2022** along with **CAN 1 of 2022** stand **dismissed**.

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.

(Supratim Bhattacharya, J.)

(Subrata Talukdar, J.)