

Ct.
No.
14

4
akb

08.05
2023

W.P.A. 10464 of 2021

**Monalisa Patra & Ors.
-Versus-
State of West Bengal & Ors.**

**Mr. Ekramul Bari, Adv.
Ms. Tanuja Basak, Adv. ...For the Petitioners**

**Ms. Chaitali Bhattacharya, Adv.
Mr. Kartik Chandra Kapas, Adv. ...For the State
Respondents**

**Mr. Arjun Roy Mukherjee, Adv.
Mr. D. Mitra, Adv. ...For the Respondent No. 8
Pachim Banga Samagra
Shiksha Mission**

The petitioners have degree in B.Ed. and D.Ed. in Special Education up to the year 2020 recognized by Rehabilitation Council of India as well as by the National Council for Teacher Education. They are the experts and specially trained to teach the specially abled and disabled children who are considered as physically and mentally challenged children. After the advent of the persons with disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 physically challenged children need special education from the specially educated persons.

Having requisite qualifications i.e. B.Ed. and D.Ed. in special education, the petitioners, in order to get job in educational institutions to impart education to those physically challenged children, made representations to the State Authorities seeking appointment as Special Education Teacher. But, the authorities concerned turned deaf ear to their representations.

Under the aforesaid circumstances, the petitioners by preferring this writ petition, seek, amongst others, the following reliefs.

“A Writ of and/or in the nature of Mandamus

be issued by directing the concerned respondent authorities herein to consider the petitioners as Special Educators for regular appointment against sanctioned vacancy in Government, Government aided and recognized schools/institutions to teach the specially abled children on mandatory basis forthwith;

A Writ of and/of in the nature of Mandamus be issued by directing the concerned respondent authorities herein to make arrangement by reserving posts for the Special educators in each Government, Government aided and recognized schools in the State of West Bengal against sanctioned vacancies in each Government aided schools to teach the specially abled children forthwith;

A Writ of and/of in the nature of Mandamus be issued by directing the concerned respondent authorities herein to consider the recruitment and the recommending authorities should give weight age to the petitioners having special education (B.Ed./D.Ed. degree in Special Education) and thereby conduct recruitment for appointment against regular sanctioned vacancy in each Government, Government aided and recognized schools to teach the specially abled children forthwith;

A Writ of and/of in the nature of Mandamus be issued by directing the concerned respondent authorities herein to frame policy and accordingly make arrangement for appointment of Special Educators against regular vacancy by recognizing their qualification in each schools to teach the

specially abled children and thereby bring the petitioners within the scope of employment with regular and equal service benefits forthwith;

To hold and to declare that the petitioners having B.Ed./D.Ed. degree in Special Education, namely, the Special Educators are entitled for regular appointment in each Government, Government aided and recognized schools to teach the specially abled children like the other teachers from Primary to Higher Secondary level in the State of West Bengal.”

In the report by way of affidavit as invited by this Court from the State Authorities, the respondent No. 1 states that the State has decided to engage Special Education Teachers phase wise. In the first phase at Primary level, 2715 would be engaged (where more than 4 CWSN are enrolled) and at the Secondary level, 2583 would be engaged (where more than 10 CWSN are enrolled). Thus, the total requirement comes to 5298. The service of the Special Education Teachers will be used in itinerant mode against cluster of schools. The Department of School Education, Government of West Bengal has taken steps towards creation of post with concurrence of the Finance Department. The Finance Department has accorded its approval subject to the Cabinet approval for the creation of post of 5,298 Special Education Teacher in the 1st phase vide UO No. Group P2/2-22-2023/0951 dated 13.03.2023.

After having received the approval for post creation from the Finance Department, the State has proposed to take steps for filling up of post.

In such context, a Notification No. 202-SED-13037/60/2023-Elmn sec dated 19th April, 2023 issued

by the School Education Department, Government of West Bengal, handed up by Mr. Arjun Roy Mukherjee, learned Counsel for the respondent No. 8, shows that in compliance with the order of the Hon'ble Supreme Court of India in WP(C) 132 of 2016 & WP(C) 876 of 2017 in the matter of ***Rajneesh Kumar Pandey & Ors. Vs. Union of India & Ors.*** the Hon'ble Governor has been pleased to create and fill up 2715 (two thousand seven hundred fifteen) regular post of Special Education Teacher in the 1st phase at Primary Level for the Children With Special Needs (CWSN).

Since the State has already taken steps to fill up the Special Education teachers phase wise in compliance with the direction of the Hon'ble Apex Court, I think that the writ petition may be disposed of in view of the report submitted by the State Authority as well as government notification Dated 19.04.2023 issued by the School Education Department.

Accordingly, the writ petition being WPA No. 10464 of 2021 stands disposed of.

No order as to costs.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

Urgent photostat copy of the order, if applied for, be supplied to the petitioner on priority basis on compliance of necessary formalities, on priority basis.

(Rabindranath Samanta, J.)