

17.05.2023
SL.Nos.1&2
Crt. No.11.
KB

MAT 804 of 2023
with
IA No. CAN 1 of 2023
The West Bengal Board of
Primary Education & Ors.
Versus
Mrinmoy Sarkar & Ors.
with
MAT 830 of 2023
with
IA No. CAN 1 of 2023
with
IA No. CAN 2 of 2023
Shrabani Nayek & Ors.
Versus
Mrinmoy Sarkar & Ors.

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

... For the appellants in
MAT 804 of 2023 &
For the Board in
MAT 830 of 2023.

Mr. Piyush Chaturvedi
Mr. Chittapriya Ghosh
Mr. Somesh Kumar Ghosh

... For the appellants in
MAT 830 of 2023.

Mr. Firdous Samim
Ms. Gopa Biswas
Ms. Mousumi Hazra
Ms. Payel Shome

... For Respondent/Writ
Petitioner in both the
Appeals.

Ms. Moumita Ghosh

... As intervenor in
MAT 830 of 2023

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

Under challenge in both the appeals which are analogous in nature is the Order of the Hon'ble Single Bench dated 1st of May, 2023 passed in WPA 10108 of 2023. By the said impugned Order the Hon'ble Single Bench permitted the Writ Petitioners, who are all B.Ed. degree holders, to appear for the selection process connected to recruitment of Assistant Teachers as initiated by the West Bengal Board of Primary Education on and from the 29th of November, 2022.

The Hon'ble Single Bench permitted the Writ Petitioners to apply for the selection purely on the basis of their B.Ed. degrees.

Challenging the aforesaid Order in MAT 804 of 2023, the West Bengal Board of Primary Education (for short, the Board) is represented by Mr. Sanyal, Learned Senior Counsel with Mr. Saikat Banerjee and Mr. Biswas, Learned Counsel, all appearing for the appellants.

In the next analogous appeal, being MAT 830 of 2023, the appellants are candidates who have already appeared for the selection on the basis of their degrees as advertised by the Recruitment Notification dated 29th

September, 2022 and represented in this appeal by Mr. Chaturvedi, Learned Senior Counsel.

The appellants point out that the Writ Petitioners before the Hon'ble Single Bench has earlier applied on the basis of their training qualification, being D.EL.Ed., in terms of the permission to apply granted by the Board to such candidates who were pursuing their D.EL.Ed. Course but were yet to receive their final D.EL.Ed. Certificates.

By a common Judgement and Order dated 11th April, 2023 in a bunch of analogous appeals, this Hon'ble Division Bench, *inter alia*, held the candidates who had not yet completed their D.EL.Ed. Course or, had not obtained their final D.EL.Ed. Certificates on the date of the Recruitment Notification, i.e. 29th September, 2022, to be ineligible to apply. Accordingly, the Board had proceeded to re-work the recruitment exercise by excluding the candidates who had completed their D.EL.Ed. Course as on the date of the Recruitment Notification dated 29th September, 2022.

Both Mr. Sanyal and Mr. Chatterjee, Learned Senior Counsel, submit that the candidates excluded to apply on the basis of their failure to possess D.EL.Ed. Certificates on the date of the Recruitment Notification

(*supra*) cannot be now permitted by the Hon'ble Single Bench to apply for the same recruitment process on the basis of their B.Ed. degrees.

However, it is not disputed by the parties that the B.Ed. degree is recognised as a standard of eligibility criterion for participating in the recruitment for Assistant Teachers.

Both the sets of appellants further submit that the Writ Petitioners had the option to *edit* and/or modify their on-line applications to omit D.EL.Ed. qualification and only include the B.Ed. qualification. However, such opportunity was not availed of by the Writ Petitioners.

It is submitted by the Board that at this stage, the Recruitment Process has reached an advanced stage and hence the Hon'ble Single Bench erred in calling upon the Board to re-visit the entire Recruitment Process.

On behalf of the Respondents/Writ Petitioners, Mr. Samim, Learned Senior Counsel, points out that it is not disputed that the Board and the National Council for Teachers' Education (NCTE) recognises B.Ed. as a standard of qualification in the Recruitment Process.

It is pointed out that the Board itself permitted the Writ Petitioners to apply on the basis of their D.EL.Ed.

training courses and only such portion of the Recruitment Notification dated 29th September, 2022 being Paragraph 3(b) thereof allowing in-Course D.EL.Ed. candidates stood quashed by the Hon'ble Division Bench dated 11th April, 2023.

It is therefore submitted that the Writ Petitioners have the right to be considered on the basis of their standalone B.Ed. qualification which is entitled to be treated as an eligibility criterion for applying for the Recruitment Process of Assistant Teachers in terms of the Recruitment Notification dated 29th September, 2022.

Having anxiously heard the parties and closely considering the materials placed, this Court finds that by the Judgement and Order of the Hon'ble Division Bench dated 11th April, 2023, the part of the Recruitment Notification dated 29th September, 2022 being Paragraph 3(b) thereof, creating eligibility for in-training D.EL.Ed. candidates who were yet to obtain their final D.EL.Ed. Certificates, stood struck down.

In the further view of this Court the striking down by the in-course training qualification of D.EL.Ed. in the facts as discussed in the Judgement and Order dated 11th April, 2023, does not create a bar to consider the candidature of the Writ Petitioners only on the basis of

their standalone B.Ed. qualification which, it is not disputed, is also an eligibility criterion to participate in the Recruitment Process. This Court also records that the parties have submitted that the position of the B.Ed. degree being an eligibility criterion, is currently pending challenge before the Hon'ble Apex Court.

Needless to therefore add, the directions passed in this appeal shall be subject to appropriate adjudication by the Hon'ble Apex Court.

For the above reasons, no interference is called for in the Order impugned of the Hon'ble Single Bench.

MAT 804 of 2023 with **IA No. CAN 1 of 2023** with **MAT 830 of 2023** with **IA No. CAN 1 of 2023** with **IA No. CAN 2 of 2023** stand accordingly **disposed of**.

CAN 1 of 2023, being for Leave to Appeal in **MAT 830 of 2023**, stands accordingly **allowed**.

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 xerox certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Supratim Bhattacharya, J.)

(Subrata Talukdar, J.)