

31.01.2023
(S/L-14)
Ct.-18
(P.Jana)

W.P.A. 15003 of 2022

Swapna Mondal @ Swapna Kayal Mondal

-Vs-

The State of West Bengal & Ors.

Mr. Goutam Sardar,
Mr. Goutam Malik,
Ms. Shikha P. Chowdhury,

.... For the petitioner.

Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey,

.... For the S.S.C.

Mr. Biswabrata Basu Mallick,
Mr. Sayan Ganguly,

.... For the State.

The petitioner participated in the 1st State Level Selection Test, 2016 for recruitment of Assistant Teachers in upper Primary level Schools in the subject English.

The grievance of the petitioner is that she was not called for personality test.

Dr. Patra, learned counsel for the Commission submits that the petitioner since has acquired her professional qualification after the last date of submission of the application for such appointment, she is not entitled to be called for the personality test.

October 03, 2016 was the last date for submission of the application in relation to the selection process of 2016. The petitioner admittedly had obtained her B.Ed degree in the year 2018.

The third proviso appended to Rule 4(1) of the West Bengal School Service Commission (Selection for appointment to the post of Teachers for upper primary level of Schools) Rules, 2016 mandates that the *certificates received on or before the last date of the application and mentioned in the application form, shall be counted for academic and professional qualification.*

Besides aforesaid, the entire selection process of 2016 was once set aside by a Co-ordinate Bench of this Court vide judgment and order dated December 11, 2020 passed in the W.P.A 9597 of

2019 along with other similar matters. The Commission, by the said judgment was directed to hold fresh selection process of all candidates who were found eligible under Rule 12(2) of the aforesaid Rules, 2016.

The learned Single Judge in the said judgment did not accept the argument of the Commission that third proviso to the Rule 4(1) of the said Rules, 2016 is directory and procedural in nature.

The necessary corollary of the aforesaid finding is that the said proviso is mandatory.

That being the position, this Court is of the opinion that the petitioner is not entitled to be called for the personality test, accordingly, W.P.A. 15003 of 2022 is dismissed. There shall, however, be no order as to costs.

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

(Biswajit Basu, J.)