

13.10.2023
SL No.29
Court No.8
(gc)

**MAT 1300 of 2022
CAN 1 of 2022**

**Ananya Biswas (Ghosh)
Vs.
The State of West Bengal & Ors.**

Mr. Partha Sarathi Bhattacharya, Sr. Adv.,
Mr. Kazi Sajjad Alam,
Ms. Afsana Khatun,
...for the Appellant.
Mr. Sauvik Nandy,
...for the N.C.T.E.
Mr. Supriyo Chattopadhyay,
Mr. Sabyasachi Mondal,
...for the State.

1. The grievance of the petitioner/appellant is that in spite of the requisite qualification, her candidature was rejected by the District Inspector of Schools (S.E.), Kolkata on 1st December, 2020 to the post of Assistant Teacher in History (Pass). The petitioner was the first empanelled candidate.
2. In order to clarify whether the petitioner has the required qualification, N.C.T.E. has filed a report in the form of affidavit disclosing all the relevant circulars and notifications.
3. Mr. Nandy, learned Counsel appearing on behalf of the N.C.T.E. has relied upon the notification dated 13th November, 2013 in

which the requirement of minimum percentage of marks in Graduation was considered along with its applicability. It appears that the qualifications mentioned in the Gazette Notification dated 23rd August, 2010 was amended in the manner following:-

“1. In the said notification in paragraph 1, in sub-paragraph (ii), - (A) in clause (a) for the words, figures, brackets and letters “Graduation with at least 50% marks and 1 year Bachelor in Education (B.Ed.)”, the words, figure and letters “At least 50% marks either in Graduation or in Post-Graduation and B.Ed.” shall be substituted.

(B) After clause (b), at the end, the following proviso shall be inserted, namely:-

“Provided that minimum percentage of marks in graduation shall not be applicable to those incumbents who had already taken admission to the Bachelor of Education or Bachelor of Elementary Education or equivalent course prior to the 29th July, 2011.

2. This notification shall be deemed to have come into force on the 29th July, 2011.”

4. Prima facie, it appears that the said notification applies to the appellant as she had already taken admission to the Bachelor of Education prior to 29th July,

2011. The petitioner had acquired B.Ed. qualification in the year 2004.

5. Under such circumstances, the impugned order of D.I. dated 1st December, 2020 is set aside. Consequent thereupon, the judgment of the learned Single Judge is also set aside.
6. We direct the D.I. to reconsider the matter on the basis of the notification dated 13th November, 2013 and pass a fresh order within eight weeks from the date of communication of this order by either of the parties.
7. Accordingly, the appeal and the application stand disposed of.
8. However, there shall be no order as to costs.
9. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)