

Court No.
03.8.2023

(Item No. 98)

(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 16881 of 2015

Soma Dey

VS

The State of West Bengal & Ors.

Mr. Vishak Bhattacharya

Ms. Biyanka Bhattacharya

..... for the petitioner

Dr. Sutanu Kumar Patra

Ms. Supriya Dubey

.... For respondent Nos. 1 to 3

Ms. Biyanka Bhattacharya, learned advocate led by Mr. Vishak Bhattacharya, learned advocate appeared for the petitioner.

Ms. Supriya Dubey, learned advocate led by Dr. Sutanu Kumar Patra, learned counsel appeared for the respondent Nos. 3 to 6.

The State chose not to be represented.

This is a hearing matter.

The office report dated January 18, 2017 showed that, despite direction made by a co-ordinate bench on February 29, 2016 no affidavit-in-opposition was filed.

After considering the issue involved in the writ petition, considering the age old pendency of the writ petition and upon perusal of the materials on record this Court thinks it fit that, any further pendency of this writ petition will not serve any useful purpose and accordingly the same is taken up for consideration and disposal.

Ms. Bhattacharya, learned advocate for the petitioner submitted that, the petitioner was an aspirant in the selection process for **12th Regional Level Selection Test 2011 (RLST- 2012)**. She was an aspirant for the post of **Assistant Teacher** for the subject **Bengali (Pass)** and applied as a **General candidate**. The petitioner was selected in the written test and appeared before the Personality Test. When the counseling took place the petitioner did not receive any call for counseling. The petitioner then applied under the provisions of the **Right to Information Act, 2005** for obtaining her answer scripts. The answer scripts were provided, **Annexure P-7** at **page 46** to the writ petition. Referring to the said answer scripts learned counsel for the petitioner submitted that, the petitioner had raised challenge against the evaluation of the answers script of the petitioner in respect of 10 number of questions. It was submitted that, the petitioner had secured **63 marks** in total after qualifying the Personality Test and was not considered in the consideration zone for appointment. It was submitted that, the last candidate one **Baisakhi Singha Roy** received an appointment who secured **64.83 marks**.

In the light of the above facts, the petitioner filed this writ petition, inter alia, praying for the following reliefs:

“(a) A writ of or in the nature of Mandamus do issue commanding the respondents, their agents, servants, subordinates, employees and/or assignees particularly the West Bengal Regional School Service Commission, Western Region to assess and/or reevaluate the answer script of the petitioner afresh and to declare the petitioner fit for the post of Assistant Teacher in Bengali (Pass) under General Category within the jurisdiction of West Bengal Regional School Service Commission, Western Region on the basis of the 12th Regional Level Selection Test, held on 29th July, 2012;

(b) A writ in the nature of Certiorari commanding the respondents to transmit the entire original records pertaining to the petitioner before this Hon’ble Court so that conscionable justice may be administered;

(c) A writ of or in the nature of mandamus do issue commanding the respondent their men, agents, assigns, subordinates, and/or representative to transmit unto this Hon’ble Court all informations sort for as stated in the RTI application dated 4th June, 2015 made by your petitioner being Annexure “P-5” so that conscionable justice may be done;

(d) A writ of or in the nature of mandamus do issue commanding the respondents their men, agents, assigns, subordinates, and/or representatives not to take steps and/or further steps in terms of the advertisement for “TET” examination dated 10.06.2015 and further not to publish any notifications for the post of Assistant Teachers;

(e) Any other writs and/or writ;

(f) Issue Rule Nisi in terms of prayers (a) to (d) as above;

(g) An order of injunction restraining the respondents their men, agents, assigns, subordinates, and/or representatives from taking any step and or steps in terms of the advertisement dated 10th June, 2015 for the upcoming “TET” examination and further not to publish any new advertisement for the post of Assistant Teacher, till disposal of the instant writ application;

(h) Pass an Ad-interim order directing the respondents to keep one vacant post of Assistant Teacher in Bengali (Pass) General category, Western Region in connection with examination held on 29.07.2012, till the disposal of the instant writ application;

(i) Ad-interim orders in terms of prayers (g) and (h) above;

(j) Pass such other and/or order or orders and direction/directions as Your Lordships may deem fit and proper;”

Learned counsel for the petitioner submitted that, it is a fit case where this Court in exercise of its high prerogative writ jurisdiction should intervene in the selection process by directing re-evaluation/re-assessment of the answer scripts of the petitioner afresh and also to declare the petitioner fit for the appointment.

Ms. Supriya Dubey, learned counsel led by Dr. Sutanu Kumar Patra, learned counsel appearing for respondent Nos. 3 to 6 referring to **prayer “a”** to the writ petition, submitted that, the relief for the relevant selection process or the relevant statute does not permit for **review/re-assessment/re-evaluation** of

the answer scripts of an aspirant candidate in law. She submitted referring to the answer scripts of the petitioner annexed to the writ petition that, all the answers given by the petitioner were properly assessed in terms of the model answer key provided by the respondent No. 3 and the top sheet of the answer sheet would clearly demonstrate that every answer of the petitioner against the question answered by her were taken into account while calculating the aggregate of the petitioner.

Ms. Dubey, learned counsel further submitted that, the examination for the relevant selection process was held in **July 29, 2012**. The petitioner appeared on the Personality Test on **August 21, 2013**. The panel was then published and ultimately expired on **March 24, 2015**. She then referred to the jurat from the writ petition and submitted that, the writ petition was filed on or about **July 14, 2015** admittedly when the panel had expired.

In the light of the above submissions, learned counsel for the respondent Nos. 3 to 6 submitted that, this Court should not now intervene in the said selection process of RLST 2011, the panel of which had already expired around eight years back.

Considering the rival submissions made on behalf of the parties and considering the materials on record, at the out set it appeared to this Court that, the relevant **RLST was held in 2011** and the writ

petition was filed on or about **July 14, 2015** and the panel was expired on **March 24, 2015**.

The petitioner raised questions in respect of the evaluation of his answer scripts and claimed the relief for **review/re-assessment/re-evaluation** thereof. The relevant rules governing the said RLST and/or the law relating thereto **does not permit any review or re-assessment or re-evaluation** of any answer scripts of the aspirant. In absence of any such statutory provisions, the Court cannot impose direction for **review/re-assessment/re-evaluation** of the answer scripts of the aspirant. In as much as, the Court is not the expert to assess the answer scripts of the aspirant petitioner.

Considering the relief claimed in the writ petition quoted above, this Court is of the firm view that, in absence of any specific statutory provisions or rules, the Court **cannot direct review/re-assessment/re-evaluation** of the answer scripts of the petitioner.

In as much as, today in 2023, since the relevant selection process had concluded long back with the expiry of the panel on **March 24, 2015**, no cause exists as to why this Court shall intervene in the selection process of **RLST - 2011** through this writ petition.

In view of the foregoing discussions and reasons, this writ petition being **W.P.A. 16881 of 2015** stands dismissed, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)