

11 18.12.2023
AN Ct. No. 08

MAT 1913 of 2023
With
IA No. CAN 1 of 2023

The West Bengal Board of Primary Education & Ors.
vs.
Mahuya Khatun & Ors.

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

... for the WBBPE

Mr. Anand Farmania
Ms. Indumouli Banerjee

... for the State

Mr. Mukteswar Maity
Ms. Manika Sarkar

... for respondent no. 2

We have heard learned counsel for the parties at length.

Mr. Sanyal, learned counsel appearing for the appellant has submitted that the Deputy Secretary was called upon to explain the digitized data could not offer a proper explanation and an opportunity ought to have been given to the Deputy Secretary to file an affidavit indicating in details the procedure adopted.

Mr. Sanyal has further submitted that based on the self-same digitized OMR data, the coordinate Bench has allowed additional six months and accordingly, there may not be any justification for not accepting the digitized OMR data in the instant case.

We find from the impugned order that the points urged before us were not raised in the manner in which it has been argued today. We feel that an opportunity to file an affidavit would have facilitate the entire process and for appreciation of the issues involved.

We prima facie find that there is explanation for the Code one in the data sheet which would appear from the to the candidates proposed before this Court today. Mr. Sanyal, in all fairness, has submitted that this document could not be produced on that date.

In the instant case, we **dispose of** this appeal by giving liberty to the petitioner to file an affidavit disclosing all facts relevant to the issue within a period of four weeks from date upon prior service to Mr. Mukteswar Maity, learned counsel and reconsider the matter afresh. Reply, if any, be filed within a week thereafter. Since we are of the opinion that the appellant has raised certain issues that are required to be called upon and in absence of an affidavit it is difficult for this Court to consider whether these points were urged we pass the aforesaid direction by quashing the order in a period. The learned Single Judge is requested to reconsider the matter afresh. Liberty to mention for expeditious disposal of the writ petition.

Consequently, the connected application is also disposed of.

(Uday Kumar, J.)

(Soumen Sen, J.)

