

Item-41. 18-10-2023

MAT 2098 of 2023
CAN 1 of 2023
CAN 2 of 2023

sg Ct. 8

Mrinmoy Halder & Ors.
Versus
Ramesh Malik & Ors.

Mr. Anindya Lahiri, Adv.
Mr. Samrat Dey Paul, Adv.
Ms. Pranati Das, Adv.
Mr. Anish Chakraborty, Adv.

...for the appellants

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. Sudipta Dasgupta, Adv.
Mr. Bikram Banerjee, Adv.
Mr. Arka Nandi, Adv.
Mr. Saikat Sutradhar, Adv.
Ms. Shalini Ghosh, Adv.
Mr. Baibhav Roy, Adv.

...for the petitioners

Mr. L.K. Gupta, Sr. Adv.
Mr. Subir Sanyal, Adv.
Mr. Saikat Banerjee, Adv.
Mr. Ratul Biswas, Adv.
Mr. Koushik Chowdhury, Adv.

...for the Board

1. The application for leave to appeal being CAN 2 of 2023 is allowed and disposed of accordingly.
2. We have heard the learned Counsel for the Board.
3. In the report filed by the Board, it has been stated that out of 96 candidates, names of whom were forwarded by the CBI, 95 candidates appeared between 19th September, 2023 and 27th September, 2023 for verification of documents. 94 candidates could not produce any document regarding TET qualification. As per both digitized data, these 94 candidates did not qualify in TET 2014.
4. Mr. Subir Sanyal, learned Counsel lead by Mr. L.K. Gupta, learned Senior Counsel appearing for the Board has

submitted that, since the Board did not have the opportunity to bring it to the notice of the learned Single Judge that the appointments of 94 candidates are in excess of the declared vacancies and not from the panel, the question of filling up the said posts and to publish a fresh panel could not and does not arise.

5. In view thereof, we permit the Board to file an affidavit before the learned Single Judge to bring on record such facts.
6. Insofar as the unsuccessful candidates are concerned, we find it is not in the nature of direction.
7. The learned Judge has observed that the said direction should be implemented if it is found to be possible and the State was directed to take a sympathetic view on unsuccessful candidates who might have suffered for not being appointed despite possessing the eligibility criteria.
8. Although it is not a direction, we expect the Board to explore the said possibility with the State Government.
9. Insofar as the publication of panel is concerned, Mr. Sanyal has submitted that on a number of occasions, the panel has been published and there cannot be any further requirement to publish the panel in terms of Rule 8 of the West Bengal Primary Teachers' Recruitment Rules, 2016 in respect of the recruitment process for the years 2016 and 2022. Mr. Sanyal has further submitted that in terms of an order passed by the coordinate Bench, a panel has been published with breakup marks. However, the same could not be placed before the learned Single Judge.

10. In view thereof, the direction with regard to publication of panel in terms of Rule 8 shall remain suspended till the learned Single Judge considers the matter afresh upon consideration of the order passed by the coordinate Bench and being satisfied that the publication made by the Board conforms to the requirement.
11. The appeal and the stay application are accordingly, disposed of with the aforesaid modification.
12. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)