

02 08.12.2023

Ct-08

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CPAN 1509 of 2023
in
FMA 703 of 2022

Brojendra Sen Chowdhury & Ors.
Vs.
Dr. Partna Karmakar

Mr. S. Pal
Mr. Sudeep Pal Choudhuri
Ms. Diya Nandi
... For the Applicants

Mr. Subir Sanyal
Mr. Ratul Biswas
Mr. Kaushik Chowdhury
... For the alleged Contemnor

1. We Have heard the learned counsel appearing for the parties.

2. The report dated 7th December, 2023 filed by the Deputy Secretary, West Bengal Board of Primary Education is taken on record.

3. This contempt application is filed for non-compliance of the order dated 2nd August, 2023 on the assumption that all the appellants were successful in TET-2014 examination and had participated in the recruitment process initiated by the West Bengal Board of Primary Education in the year 2016 and are all trained candidates. We permitted the appellants, except the appellant no. 1, to participate in the Selection Process of 2022 with the observation that in the event they participate in the Selection Process of 2022 their candidature shall be considered in terms of the merit.

4. On the earlier occasion, we considered the report dated 12th September, 2023 filed by the West Bengal Board of Primary Education in which in paragraph 3 the details of three candidates have been stated. The said paragraph is reproduced below:-

“3) On scrutiny it appears that in 2016 recruitment process the petitioners were untrained candidates. (1) Brojendra Sen Chowdhury had scored 12.583 marks which was less than that of the last empanelled candidate in his opted District, Medium and Category i.e. 15.965. (2) Milan Roy had scored 16.233 marks which was less than that of the last empanelled candidate in his opted District, Medium and Category i.e. 20.421 and (3) Rana Kundu had scored 16.031 marks as an OBC-B Category candidate. But the vacancies of OBC-B category in his opted District and Medium were filled up by the trained candidates.”

5. Accordingly, on the basis of such finding the Deputy Secretary, West Bengal Board of Primary Education, was of the opinion that they could not come within the zone of consideration.

6. The matter was adjourned in order to enable Bappa Debanth and Pintu Mondal to resubmit the TET certificates with Roll Numbers to the West Bengal Board of Primary Education by 4th December, 2023 so that the Deputy Secretary, West Bengal Board of Primary Education, can consider the same in deciding their eligibility for 2022 Recruitment Process. On the

basis of information supplied by the said two candidates it was observed by the Deputy Secretary that only Rana Kundu applied for 2022 Recruitment Process and participated in the said Recruitment Process. However, in view of the fact that he is Bachelor of Physical Education (B.P.Ed) trained candidate and he cannot be considered as eligible in view of the judgment of this Court in WPA 24074 of 2022 with CAN 1 of 2023 (Swagata Ghosh & Ors. Vs. The State of West Bengal & Ors.) decided on 6th September, 2023.

7. In a contempt application the Court is required to find out whether there is any wilful and deliberate violation of the order. Since we find that the Deputy Secretary, West Bengal Board of Primary Education, has considered the matter and has given a reason with regard to their ineligibility we drop the contempt proceeding with liberty to the applicants/appellants to challenge the report dated 12th September, 2023 and 7th December, 2023 in accordance with law. In the event, the two decisions of the Deputy Secretary are challenged, we make it clear that the writ petition shall be decided without being influenced by our order.

8. Contempt application being CPAN 1509 of 2023 is accordingly disposed of.

9. However, there shall be no order as to costs.

10. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar ,J.)

(Soumen Sen, J.)