

10.01.2024
SL Nos.40-43 wt suppl.-1
Court No.8
(gc)

**MAT 42 of 2024
CAN 1 of 2024**

**The West Bengal Board of
Primary Education & Anr.**

Vs.

Moutusi Roy & Ors.

With

**MAT 44 of 2024
CAN 1 of 2024**

Shobhan Kayal & Ors.

Vs.

Moutusi Roy & Ors.

With

**MAT 57 of 2024
CAN 1 of 2024
CAN 2 of 2024**

Tuhin Kumar Haldi & Ors.

Vs.

Moutusi Roy & Ors.

With

**MAT 58 of 2024
CAN 1 of 2024
CAN 2 of 2024**

Rajeeb Dey & Ors.

Vs.

Moutusi Roy & Ors.

With

**MAT 40 of 2024
CAN 1 of 2024**

Mrinmoy Haldar & Ors.

Vs.

Ramesh Malik & Ors.

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

...for the Appellant/Board
in item No.40.

Mr. Anindya Mitra, Sr. Adv.,
Mr. P.S. Deb Barman,
Mr. Biswarup Bhattacharya,
Mr. S.Sen,
Mr. Ratul Deb Banerjee,
Md. M. Nazar Chowdhury

...for the Appellants
In item No.41.

Mr. Kalyan Kr. Bandopadhyay, Sr. Adv.
Ms. Pramiti Bandopadhyay,
Mr. Rahul Kumar Singh,

...for the Appellants
in item No.42.

Mr. S.N. Mitra, Sr. Adv.,
Mr. Chittapriya Ghose,
Mr. Somesh Kumar Ghosh,
Mr. Kuntal Roy,

...for the Appellants
In item No.43.

Mr. Anindya Lahiri,
Ms. T. Lahiri,
Mr. Samrat Dey Paul,
Mr. A. Chakraborty,

...for the Appellants
In MAT 40 of 2024.

Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.,
Mr. Sudipta Dasgupta,
Mr. Bikram Banerjee,
Mr. Anath Nath Naskar,
Mr. Arka Nandi,
Ms. Dipa Acharyya,
Ms. S. Chakrabarti,

...for the Respondents/
Writ Petitioners
in all matters.

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

...for the Respondent Board
In item Nos.41,42 & 43.

Mr. Tirtha Pati Acharyya,

...for the U.O.I.
In item nos.41 & 43.

Mr. Supriyo Chattopadhyay, A.G.P.,
Ms. Iti Dutta,

...for the State
In all matters.

1. The appeals and the connected applications and the application for leave to prefer an appeal are heard together and disposed of by this common order.
2. The learned Single Judge on interpretation of our order dated 20th December, 2023 in MAT 2444 of 2023 was of the view that the direction passed His Lordship in the impugned order is not in conflict with the order passed by this Division Bench on 20th December, 2023. The learned Single Judge proceeds on the basis that the Division Bench cannot pass an order in respect of a position admitted by the Board that on a number of occasion, 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 and the set of facts pleaded in the said matter are not identical with the matter in which this Division Bench had passed the stay order in MAT 2444 of 2023. However, the learned Single Judge has not stated in the order distinguishing facts on the basis of which the aforesaid order could have been passed as in our order, we have clearly stated in paragraph 3 that the writ petitioners have to first establish their legal

right as a duly qualified TET 2014 candidates in order to get a relief whatever the nature of the proceeding may be. This stand is reiterated in paragraph 5 of the said order. This seems to have been overlooked by the learned Single Judge in directing the Board to produce the hard copy or soft copy of the panel concerned.

3. We reiterate that before any such exercise could be undertaken, the writ petitioners have to first establish their legal right as a duly qualified TET 2014 candidates in order to get a relief whatever the nature of the proceeding may be.
4. Mr. Bikash Ranjan Bhattacharyya, learned Counsel appearing for the writ petitioners has agreed with the observation made by this Court in this regard.
5. In view of the aforesaid settled position in law, we request the learned Single Judge to decide the maintainability of the writ petition and the legal right of the writ petitioners before deciding any other issue.
6. Accordingly, the direction passed by the learned Single Judge is set aside.
7. The other issue can only be revisited provided aforesaid two issues are answered in the affirmative.

8. In view of the aforesaid order, the Board would not be required to file any affidavit in terms of the impugned order.
9. At this stage, we are of the view the prayer for leave to prefer an appeal is premature and is not necessary in view of the order passed today.
10. We make it clear that any order passed in the said proceeding if likely to affect the parties who are before this Court an opportunity of hearing shall be given to the applicants and decided the matter on consideration of their submission.
11. By consent of the parties, the appeal being MAT 40 of 2024 along with CAN 1 of 2024 are treated as on the day's list and disposed of by this common order.
12. MAT 40 of 2024 along with CAN 1 of 2024 shall be published in the supplementary list today.
13. Leave is given to correct the cause title in the memorandum of appeal and the stay petition.
14. Accordingly, MAT 42 of 2024 with CAN 1 of 2024, MAT 44 of 2024 with CAN 1 of 2024, MAT 57 of 2024 with CAN 1 and 2 of 2024, MAT 58 of 2024 with CAN 1 and 2 of 2024 and

MAT 40 of 2024 with CAN 1 of 2024 stand disposed of.

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

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

(Uday Kumar, J.)

(Soumen Sen, J.)