

17.01.2024
Sl No.52-55
Court No.8
(gc)

**FMA 3396 of 2013
with
I.A No. CAN 3 of 2015(Old CAN No. 12037 of 2015)
CAN 4 of 2016(Old CAN No. 925 of 2016)**

**Akhil Kumar Mohanta & Ors.
Vs.
The Staff Selection Committee,
District Primary School Council,
Uttar Dinajpur & Ors.**

With

**FMA 2476 of 2013
with
I.A No. CAN 2 of 2012(Old CAN No. 2017 of 2012)**

**Biswajit Saha & Ors.
Vs.
The Staff Selection Committee,
District Primary School Council,
Uttar Dinajpur & Ors.**

With

**FMA 3397 of 2013

Jishnu Pada Nandi & Ors.
Vs.
The Staff Selection Committee,
District Primary School Council,
Uttar Dinajpur & Ors.**

With

**FMA 3398 of 2013

Prabir Kumar Mani & Ors.
Vs.
The Staff Selection Committee,
District Primary School Council,
Uttar Dinajpur & Ors.**

Mr. Debabrata Dhar,
Mr. Prodyot Kumar Roy,
Mr. Arunabha Som,
Ms. Paramita Sahu,

... for the Appellants in

all the appeals.

Mr. Gourav Das

... for the State
in FMA 3396 of 2013.

Mr. Biswabrata Basu Mallick

... for the Council.

Mr. Ratul Biswas,

Mr. Koushik Chowdhury

...for the Board.

Re: CAN 4 of 2016
(Old No. CAN 925 of 2016)
In
FMA 3396 of 2013

1. There is a delay of almost three years in filing the application for restoration of the appeal dismissed for default on 13th August, 2013. The prayer for restoration, however, is not opposed by the learned Counsel for the State. Although, we are not much convinced with the explanation offered for the delay. However, for the ends of justice, we allow this application for restoration.
2. Accordingly, appeal and the connected applications are restored to its original file and number.
3. The application being CAN 925 of 2016 is disposed of.
4. By consent of the parties all the appeals and the connected applications are taken up together and disposed of by this common order.

5. The writ petitioners are all aspirants for being considered for selection process initiated in the year 2006 for appointment of Primary Teachers under the Uttar Dinajpur District Primary School Council. Initially an order was passed on 22nd December, 2009 by which the learned Single Judge in refusing to pass any interim order observed that appointments made by it, if any, during the pendency of the writ petition shall abide by the result of the writ petitioners. The petitioners were directed to publish a notice in a daily newspaper having wide circulation informing all concerned regarding initiation of the present proceeding before this Court together with the gist of the grievance raised and the prayer made in the writ petition for the purpose of enabling interested parties to oppose the petition. On 25th February, 2010, all the writ petitions were heard together and disposed of by the impugned order. The learned Single Judge on consideration of an order passed in MAT 33 of 2010 and identical issues involved in WP No.2044 (W) of 2010 and WP No.2145 (W) of 2010 dismissed the writ petition. The learned Single Judge

has taken into consideration that more than 60,000 posts of Assistant Teachers in primary schools all over the State at the relevant point of time were vacant and the order passed by the Division Bench in MAT 33 of 2010 in which the Division Bench *inter alia* observed that the selection process for recruiting 28,000 teachers in the primary schools had already commenced and was on the verge of completion, any interference by this Court, at this stage, would run counter to public interest. Although the appeal was preferred by the present appellants, however, it seems that they have virtually abandoned the appeal as they did not appear on 29th July, 2013 and thereafter only in 2016, the application was filed for restoration of the appeal dismissed for default on 13th August, 2013. The said application was not pursued until this matter appeared in the list on 28th November, 2023 when the matter was adjourned at the instance of the appellants. In fact, the appeal was filed with a prayer for condonation of delay which was allowed on 1st December, 2010.

6. In view of the long passage of time of almost 13 years and having regard to the fact that the panel prepared pursuant to the selection process initiated in the year 2006 had expired long ago and third party interests has been created, we are not inclined to interfere with the order passed by the learned Single Judge.
7. Moreover, the delay in filing the application for restoration almost after three years is not convincing.
8. Under such circumstances, the appeals and the connected applications stand dismissed.
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.)