

Court No. 2
03.7.2024
(Item No. 46)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
(Assigned)
W.P.A. 1056 of 2023

Achinta Dhara & Ors.
VS

The State of West Bengal & Ors.

Mr. Dibyendu Chatterjee
Mr. Pritam Majumdar
Mr. Rahul Deb Goenka
Ms. Satabdi Das
Mr. Manik Singha Barma
..... for the petitioners

Mr. Subir Sanyal
Mr. Ratul Biswas
Mr. Kausik Chowdhury
... for WBBPE

Mr. Bhaskar Prasad Vaisya
Mr. Suman Dey
Mr. Nilay Baran Mandal
.... For respondent Nos.
9, 10, 17, 24 & 25

Mr. Arindam Chattopadhyay
..... for D.P.S.C., Nadia
Mr. Avishek Prasad

.... For respondent No. 14
Mr. Biswabrata Basu Mallick
Mr. Biman Halder
Mr. Amman Arif Answari

.... For respondent Nos. 12 & 19
Mr. Samiran Giri
.... For respondent No. 20

This is a hearing matter upon affidavits.

The petitioners were the aspirants for the selection process arising out of the 2020 recruitment process for the post of **Assistant Teachers** at the Primary Schools in the State. The petitioners participated in the **Teachers' Eligibility Test, 2014 (for short, TET)**.

The grievance of the petitioners is that, the aspirants who participated in the TET under the reserved category and thereby received the reservation

benefits under the State policy could not have been included ultimately under the **General Category (Un-Reserved)** list.

Mr. Dibyendu Chatterjee, learned counsel appearing for the writ petitioners has very forcefully submitted that, the moment the reserved category candidates after receiving the benefits of the reservation are allowed to be included in the General category candidates, the same would amount to an encroachment of the space of the Un-reserved candidates and would be in violation of Article 14 of the Constitution of India.

In support, learned counsel for the petitioners had relied upon the following judgments of the Hon'ble Supreme Court:

- (i) In the matter of: Niravkumar Dilipbhai Makwana Vs. Gujarat Public Service Commission & Ors reported at (2019) 7 Supreme Court Cases 383;**
- (ii) In the matter of: Deepa E.V. Vs. Union of India & Ors. reported at (2017) 12 Supreme Court Cases 680;**
- (iii) In the matter of: Government of NCT Delhi & Ors. Vs. Pradeep Kumar & Ors. rendered in Civil Appeal No. 8259 of 2019 arising out of SLP (C) No. 11254 of 2019 dated October 24, 2019.**

Mr. Subir Sanyal, learned counsel appearing for respondent Nos. 3 to 5 submits that, the

recruitment process was initiated on **December 23, 2020**. The Panel or Merit list was notified on **February 15, 2021**, which stood extinguished after one year *i.e.* on **February 15, 2022** as per the relevant **Recruitment Rules, 2016**. The writ petition was filed on **January 13, 2023**.

Mr. Sanyal then submits once the panel stood extinguished and expired, the right of the selected candidates for about 16,000 in numbers have already been settled and crystallized and the same cannot be interfered with at this belated stage. He further submits that, arising out of the **self-same recruitment process**, the Hon'ble Supreme Court had dealt the issue ***In the matter of: Ali Hossain Mandal & Others Vs. West Bengal Board of Primary Education & Ors.*** reported at **2024 SCC OnLine SC 1189 (Civil Appeal No. 1873 of 2024)** along with other Civil Appeals.

The relevant portion from the judgment ***In the matter of: Ali Hossain Mandal (Supra)*** is quoted below:

“29. In light of the above discussion, the following conclusions are reached:

- i. The manner of shortlisting candidates for appointment as suggested by the Division Bench in the impugned judgments is inconsistent with the procedure laid down under Rule 8 of the Recruitment Rules, 2016, and those, cannot be sustained.*

- ii. *The Panel or Merit List as notified on 15.02.2021 stood extinguished after expiry of one year i.e., on 15.02.2022, as per Rule 12 of the Recruitment Rules, 2016.*
- iii. *No extension by any competent authority was granted to the 15.02.2021 Panel and therefore no relief can be granted to candidates who approached the court in May 2022, i.e., long after the panel stood extinguished.*
- iv. *No further appointments is permissible from the recruitment process initiated on 23.12.2020 when a fresh recruitment process has commenced.”*

Considering the ratio laid down and the observation made by the Hon'ble Supreme Court ***In the matter of: Ali Hossain Mandal (Supra)*** as quoted above, this Court is of the view that, there is no further scope to proceed further with this writ petition.

Accordingly, this writ petition **W.P.A. 1056 of 2023** stands **dismissed**, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)