

11 **23.09.
2024**

Ct. No. 08

Ab

**MAT 489 of 2024
IA No. CAN 2 of 2024**

**Prodip Sarkar and others
Vs.
The State of West Bengal and others.**

**Mr. Ekramul Bari,
Mr. Sk. Imtiaj Uddin.
... for the appellants.**

**Mr. Supriyo Chattopadhyay, Ld. AGP,
Ms. Sayantanee Bhattacharjee.
... for the State.**

**Mr. Biswabrata Basu Mallick, Ld. AGP,
Mr. Biman Halder,
Mr. Aman Arif Ansari.
... for the DPSC, Hooghly.**

**Mr. Md. Sarwar Jahan,
Mr. Nayeemul Haque,
Ms. Tapati Sarkar,
Ms. Sumita Sen.
... for the respondent no. 7 & 18.**

**Mr. Bhaskar Prasad Vaisya,
Mr. Pinaki Dhole,
Mr. Suman Dey,
Mr. Nilay Baran Mondal,
Mr. Gourav Das.
... for the DPSC, North & South 24-Parganas.**

**Mr. Ratul Biswas,
... for the respondent no.14.**

**Mr. Avishek Prasad.
... for the respondent no. 17.**

**Mr. Samiran Giri.
... for the DPSC, Purba Medinipur.**

404 candidates have filed a writ petition challenging the action of the respondent authorities in not giving weightage by awarding marks on the training certificates issued by the institutions recognized by the West Bengal Board of Primary Education was dismissed, as those institutions are not recognized by

the National Council for Teachers Education.

A recruitment process was initiated in the year 2006, which spanned over for more than four years and slew of litigations were filed before this Court challenging the action of the authorities in not awarding the marks giving weightage under Rule 9(2)(d) of the Recruitment Rules, 2001.

The aforesaid writ petitions were dismissed upholding that the certificates issued by an institution not recognized by the National Council of Teachers Education cannot receive weightage under the aforesaid Rules. The matter was carried to the Apex Court in case of Amina Khatun & Ors. Vs. Birbhum District Primary School Council & Ors. (Civil Appeal No. 1071 of 2019). The Apex Court disposed of the said appeal on 24th January 2019 with the categorical finding that the proposition of law as laid down by the High Court does not appear to be wrong, but bearing in mind the plight of those candidates, who without knowing that the institutions recognized by the said West Bengal Board of Primary Education have no credence nor would invite any weightage in the recruitment process undertaken by the authorities following the provisions contained in West Bengal Primary Teachers Recruitment Rules, 2001 exercised its discretion to meet the ends of justice under Article 142 of the Constitution of India. However, the Apex Court, in order to mitigate the situation where large number of candidates were denied such weightage and timely approached the Court assailing the decision of the authorities, passed a direction in exercise of powers under Article 142 of the Constitution of India directing weightage to be given to those candidates, who obtained the training certificate from the institute recognized by the State Government provided they approached the Court on or before 31st December 2010.

It was further clarified that all such persons, who

may not be the original petitioners, but added as a party in a writ proceeding filed before the said cutoff date, shall also be entitled to the weightage extended to the litigants, who approached the Court.

The petitioners/appellants are admittedly neither the original petitioners nor the added persons in those writ petitions, but, subsequently, filed the writ petition before this Court taking a plea that if the weightage can be extended to the equally circumstanced persons, the denial of weightage to the petitioners offend the fundamental rights based upon the equality before the law.

We do not find any substance in the aforesaid submission, as the moment the Supreme Court has fixed a cutoff date while extending the benefit to the candidates, who approached the Court, the writ petition filed by the petitioners/appellants cannot be allowed having not in conformity with the judgment of the Apex Court. Though the delay and laches was taken a ground by the Single Bench to dismiss the writ petition, but we find that the cutoff date was fixed by the Apex Court for extending such benefit and admittedly the writ petition came to be filed beyond the said cutoff date. It is, thus, not entertainable.

Accordingly, the appeal sans merit. The same is hereby dismissed.

In view of the dismissal of the appeal itself, the connected application being CAN 2 of 2024 has become infructuous and the same is also dismissed.

Urgent Photostat certified copy of this order, if applied for, be given to the parties within three days from the date of application.

(Harish Tandon, J.)

(Partha Sarathi Sen, J.)

