

26.04.2024
Court No.13
Item No.6
AP

WPA 19588 of 2022

**Suparna Chakraborty and Ors.
Vs.
The State of West Bengal and Ors.**

Mr. Firdous Samim
Ms. Gopa Biswas
Ms. Payel Shome
Ms. Sampriiti Saha
Mr. Avijit Kar
Ms. Mohona Das

... For the Petitioners.

Mr. S. Banerjee
Mr. Ritesh Kumar Ganguly

... For the State.

Mr. Ratul Biswas
Mr. Kaushik Chowdhury

... For the WBBPE.

Ms. Madhurima Basu

... For the Union of India.

1. Notice of upgradation has been served with the respondents. Copy of the receipt of the notice is taken on record.

2. Affidavit-in-opposition has been filed by the respondent Nos.5, 6, 7 and 8 i.e. NIOS. It appears that the petitioner No.1, Suparna Chakraborty, could not appear in the examination as she was hospitalized for delivery of child. The other three respondents failed in the examination conducted in the year 2017 and 2022.

3. Counsel for the petitioner, Mr. Firdous Samim, refers to the programme guide for Professional Development Programme for Elementary Teachers

(PDPET) issued by the National Institute of Open Schooling (NIOS) annexed to the writ petition.

4. In the last page of the programme guide (internal page No.32) at page 61 of the writ petition under the heading “Re-appear in Examination” it is stipulated that if someone fails to clear any of the subjects or its part in one attempt/term, they can again appear in three subsequent attempts/terms of examination to complete the course, upon payment of examination fees to the NIOS.

5. Admittedly, the petitioners are working as Assistant Teachers under the State. They hold B.Ed. qualification. The said qualification has been declared ineligible. The said B.Ed. qualification has not been recognized by the Supreme Court as a qualifying course to enable a person to teach primary students.

6. By an order dated **8th April, 2024** in Miscellaneous Application **Diary No.4303 of 2024** (arising out of impugned final judgement and order dated **11th August, 2023** in **C.A. No. 5068/2023** passed by the Supreme Court of India) in **Devesh Sharma Vs. Union of India and Ors.**, the Supreme Court at page 8 of the said order permitted in service B.Ed. degree holders, to undergo a bridge course that will entitle them to be treated as trained candidates.

7. In view of the above, if the petitioners are allowed to appear for the examination afresh, after failing in earlier attempt or not being able to give the examination for other reasons, the petitioners would be entitled to a valid training qualification and consequently 'A category' pay scale.

8. Since the NIOS itself permits SYCT i.e. (Subject Yet to Clear in Theory), the petitioners are entitled to reattempt the said bridge course examination of PDPET course of the year 2017, examination whereof was held in the year 2019 in terms of the programme guide, the petitioners are entitled to reappear in the examination in three subsequent attempts upon payment of fees to the NIOS.

9. In these circumstances, this Court directs the NIOS to permit the petitioners to participate for the next available PDPET examination upon payment of prescribed fees and production of their credentials and documents.

10. With the aforesaid directions, the writ petition is disposed of.

11. There shall be no order as to costs.

12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)