

D/L192
11.06.2025
Rohit
ct.no.18

WPA 1392 of 2025

**Md. Miraj Uddin & Ors.
Versus
The State of West Bengal & Ors.**

Mr. Firdous Samim
Ms. Gopa Biswas
Ms. Swaty Dey
Mr. Saikat Mallick
Mr. Hasanuz Zaman Molla
...for the Petitioner

Ms. Sayantanee Bhattacharjee
.... For the State Respondent

Petitioners are working as Para Teachers in Madrasahs in State of West Bengal. It is contended on behalf of the petitioners that they are required to be considered in the selection process i.e. 1st State Level Selection Test, 2016 Upper Primary upon giving benefit of reservation to the extent of 10% in consideration of the fact that petitioners are Para Teachers working in Madrasahs. It is also submitted that status of the petitioners as Para Teachers in Madrasahs is akin to the status of Para Teachers working in State Aided Government recognized Secondary schools. Therefore, there is no hindrance in extending the benefit of reservation to the extent of

10% to the petitioners in the said selection process i.e. 1st SLST, 2016 Upper Primary. In support of such contention reliance is placed on Section 1 and Section 2(n) of the Right of Children to Free and Compulsory Education Act, 2009. According to the petitioner definition of school provided under Section 2(n) includes Madrasah. Therefore, it is contended notwithstanding specific challenge being thrown to the notification dated 22nd September, 2016 issued by the School Education Department (Secondary Branch) in terms of Rule 8(4) of the West Bengal School Service Commission (Selection for Appointment to the Posts of Teachers for Upper Primary Level of Schools) Rules, 2016 (hereinafter referred to as “Rules of 2016”) petitioners ought to have been considered straightway being an eligible para teachers in the selection process of 1st SLST, 2016 Upper Primary. Exclusion of petitioners by treating them as Para Teachers in Madrasahs is according to the petitioners is contrary to the relevant provisions of Rules of 2016. It is also submitted that notification dated 22nd September, 2016 does not create ex-facie bar in considering the candidature of the petitioners being para teachers of madrasahs. Therefore, prayer is made for consideration of the petitioners being eligible candidates in connection

with 1st SLST, 2016 Upper Primary in respect of 10% posts which are reserved for Para Teachers.

It is submitted on behalf of West Bengal Central School Service Commission (hereinafter referred to as 'Commission') upon placing reliance on the report filed in the form of affidavit that Rule 8(4) of the said Rules of 2016 authorizes State Government to issue notification in order to earmark up to 10% of the total vacant posts with a view to provide adequate representation of Para Teachers without disturbing 100 point roster as may be notified from time to time. It is further submitted that in terms of Rule 8(4) a notification was issued on 22nd September, 2016 prior to issuance of advertisement for recruitment on behalf of Government of West Bengal, School Education Department (Secondary Education Branch) whereby it has been specifically provided that during the forthcoming recruitment of teachers for Upper Primary Level of Schools, 10% of the existing vacant posts shall be filled up by the Para Teachers serving at present at various Upper Primary Level of Schools in the State. It is submitted in reference to such notification dated 22nd September, 2016 that expression "Upper Primary Level of Schools" does not include Madrasahs. Therefore, petitioners being Para Teachers working in

Madrasahs were kept outside the purview of the said selection process i.e. 1st SLST, 2016 Upper Primary. It is also submitted that in the writ petition such notification dated 22nd September, 2016 has not been questioned.

Having considered the respective submissions made on behalf of the parties this Court finds that notification dated 22nd September, 2016 was issued in terms of Rule 8(4) of the said Rules of 2016. In the said notification dated 22nd September, 2016 it has specifically been provided that 10% posts reserved for Para Teachers are confined to those Para Teachers who are serving in various Upper Primary Level of Schools in the State.

Section 2(n) of Right of Children to Free and Compulsory Education Act, 2009 does not come in aid of the petitioners since the definition attributed under Section 2(n) does not include Madrasahs/Upper Primary Madrasahs for the purpose of recruitment in connection with 1st SLST 2016 (upper primary).

Before parting with, it needs to be recorded that notification dated 22nd September, 2016 issued on behalf of School Education Department (Secondary Education Branch) extending benefit of 10% reservation to the Para Teachers serving in various

Upper Primary Level of Schools in the State and not to the Para Teachers working in Madrasahs/Upper Primary Madrasahs, is not challenged in the writ petition

In view of the aforesaid discussion no relief can be granted to the petitioners. Hence, writ petition stands dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Saugata Bhattacharyya, J.)