

WPA 2075 of 2022

Biman Chandra Majhi & Ors.
Vs.
State of West Bengal & Ors.

Mr. Ekramul Bari
Sk. Intiaj Uddin
....for the petitioners

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

Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta
.... for the WBBSE

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
.... for the WBCSSC

The present writ petition has been preferred
primarily praying for following reliefs :

“A Writ of and/or in the nature of Mandamus be issued by directing the concerned respondents herein to immediately empanel and recommend the name of the petitioners as a qualified and successful Assistant Teacher in the 1st State Level Teachers’ Selection Test (AT), 2020 for recruitment of Assistant Teachers in upper primary level of schools, classes IX-X and classes XI-XII in ‘Santali’ medium schools (except Hill Region) and thereby provide appointment forthwith.”

Mr. Bari, the learned Advocate appearing for the petitioners, submits that the West Bengal School Service Commission (hereinafter referred to as "the Commission") initiated a selection process for filling up the posts of Assistant Teachers in recognized ‘Santali’ medium non-Government aided Junior High, Secondary, and Higher

Secondary Schools in West Bengal. Consequently, a Notification was published on the official website of the Commission, inviting applications from eligible and willing candidates for the said posts.

The present petitioners, being eligible candidates, submitted their applications and participated in the selection process. Upon completion of the process, a panel was prepared in which the names of the petitioners were included, and the Commission duly recommended their names for appointment to the said posts. Such recommendations were forwarded to the West Bengal Board of Secondary Education (hereinafter referred to as "the Board"). However, the Board refused to issue appointment letters in favour of the petitioners.

Referring to Rules 10 to 12 of the West Bengal School Service Commission (Selection for Appointment to the Posts of Assistant Teachers in Junior High, Secondary, and Higher Secondary Schools) Rules, 2019 (for short, the 2019 Rules), he submits that the role of the Board is limited to verifying the documents of the candidates recommended by the Commission and issuing appointment letters accordingly. He argues that the Board has no authority to reject the Commission's recommendation or to decline issuance of appointment letters to candidates who have been duly selected.

He further submits that in 2018, for the first time, 'Santali' medium schools were recognized in the State. Initially, no suitable candidates were available, and

although a selection process was initiated post-2018, it had to be abandoned due to a lack of eligible applicants. Thereafter, a fresh selection process was undertaken to fill the posts of Assistant Teachers in Santali medium non-Government aided Junior High, Secondary, and Higher Secondary Schools.

The petitioners, being eligible, participated in this renewed selection process and were selected. It is also submitted that at the time the selection process was ongoing, the petitioners were pursuing their diploma courses. Therefore, it cannot be contended that the petitioners were ineligible for the posts

In rebuttal, Ms. Bhattacharyya, learned Advocate representing the Board, submits that, in compliance with an order passed by the Coordinate Bench of this Hon'ble Court in this writ petition, the Board has submitted a report. Referring to paragraphs 4, 5, 6, and 7 of the said report, she submits that the Commission had issued a Memo. dated 8th March, 2019, inviting applications from eligible and willing candidates for the said posts.

She submits that, in order to be eligible for selection to the post in question, a candidate must have studied the specific subject corresponding to the medium of instruction of the concerned school as a first, second, or third language at the Secondary, Higher Secondary, or Graduation/Post-Graduation level, either as an elective or optional subject.

She further submits that, in the present case, since the medium of instruction of the schools in question is 'Santali', candidates must have studied 'Santali' as a combination subject at either the Secondary, Higher Secondary, Graduation, or Post-Graduation level to be eligible for selection.

Upon verification of the documents submitted by the petitioners during the verification process, it was found only 78 candidates were eligible and as such, letters of appointment were in their favour; however, she contends, since that none of the petitioners had 'Santali' as an elective or optional subject in any of the aforementioned examinations. Therefore, the Board has rightly declined to issue letters of appointment in favour of the petitioners.

She also submits that the Board cannot be treated as a mere post office, which is bound to issue letters of appointment upon receipt of recommendations from the Commission without exercising its statutory duty of verifying eligibility of the candidates in accordance with the prescribed rules.

Mr. Chattopadhyay, the learned Additional Government Pleader, adopts the submissions made on behalf of the Board.

Dr. Patra, the learned Advocate appearing for the Commission, has also adopted the submissions made on behalf of the Board.

Heard the learned Advocates appearing for the respective parties and perused the materials on record.

It is undisputed that the Commission initiated a selection process for filling up the posts of Assistant Teachers in recognized 'Santali' medium non-Government aided Junior High, Secondary, and Higher Secondary Schools in West Bengal. The advertisement published on the Official Website of the Commission on 21st December, 2020, makes it clear that the process was undertaken in terms of the provisions of the West Bengal School Service Commission Act, 1997, and the 2019 Rules, against the vacancies in 'Santali' medium schools as specified therein,

Clause 5 of the advertisement, which sets out the eligibility criteria for candidates intending to offer their candidature, is as follows:

“A candidate willing to be selected as a Teacher in any School must have the specific subject of the medium of instruction of the School as first or second or third language at any of the Secondary or Higher Secondary or Graduation/Post Graduation level as elective or optional subject”.

Therefore, there can be no dispute regarding the fact that the medium of instruction in a 'Santali' medium school would be the 'Santali' language. As per Clause 5, to be eligible for selection to the post, a candidate must have studied the specific subject corresponding to the medium of instruction of the school, i.e., 'Santali' language, as a first, second, or third language at the Secondary, Higher Secondary, Graduation, or Post-Graduation level, either as an elective or optional subject.

In response to the query of this Court, Mr. Bari, in his usual fairness, submits that none of the petitioners had

‘Santali’ as a combination subject in any of the aforementioned examinations. Therefore, it is clear and unambiguous that none of the petitioners fulfilled the eligibility criteria to submit their candidature for the said posts.

Now, for proper appreciation of the next issue regarding whether the recommendation of the Commission is binding upon the Board, it would be appropriate to refer to Rule 12 of the 2019 Rules, which reads as follows:

“Appointment – The Central Commission shall recommend the candidates from panel(s) to the Board. The Board shall, after due verification of documents, offer appointment following the West Bengal Board of Secondary Education (Requirement of verification of Antecedents and examination of medical fitness for appointment in the posts of teacher and non-teaching staff) Rules, 2018.”

Therefore, it is evident that the intention of the legislature is that issuance of appointment letters by the Board must be preceded by verification of the candidates’ documents. Such verification cannot be treated as a mere formality but must serve a meaningful purpose. If, upon verification, any irregularity, illegality, or unusual circumstance is detected, the authority entrusted with the responsibility of verification cannot remain a mute spectator. Accordingly, if it is found that a candidate recommended by the Commission for a particular post is not eligible, the Board has the authority to decline issuance of the appointment letter. Furthermore, it must be construed that such criterion was incorporated in the advertisement with a specific purpose, and if a candidate

lacking such qualification is appointed, the very object of prescribing the criterion would stand defeated.

Therefore, based on the reasons and discussions set out in the preceding paragraphs, I am of the considered opinion that the Board has not committed any jurisdictional error in refusing to issue letters of appointment in favour of the petitioners. Moreover, I do not find any infirmity or perversity in the decision of the Board. Accordingly, no interference is called for or warranted in the present writ application.

According the writ petition is disposed of.

There will be no order as to costs.

(Partha Sarathi Chatterjee, J.)