

26.02.2025
Court No. 18
Item No. 10
(Suvendu)

WPA 3011 of 2025

Md. Selim & Anr.
-Versus-

The State of West Bengal & Ors.

Mr. Shamim Ul Bari
.....for the petitioners

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

Mr. Vimal Kumar Shahi
Ms. Kakali Naskar
.....for the State

Affidavit of service filed on behalf of the
petitioners is taken on record.

It is contended on behalf of the petitioners
that both of them are waitlisted candidates
under OBC –A category in connection with 1st
State Level Selection Test, 2016 (AT) for Upper
Primary. It is further contended that they
participated in 3rd phase counseling which was
conducted for the period from 28th January,
2025 till 31st January, 2025 and both of them
opted for vacancies in two different schools and
they have already been recommended for being
appointed as Assistant Teachers as per option
exercised by them at the time of counseling.

According to learned advocate representing the petitioners, there are certain vacancies for the post of Assistant Teacher in secondary schools which featured in the list prepared by West Bengal Central Schools Service Commission prior to first phase of counseling remained vacant due to non-joining of candidates and those vacancies were required to be included in the pool of vacancies for third phase counseling in order to grant opportunity to petitioners to opt for those vacancies since they participated in third phase counseling being waitlisted candidates. It is submitted that if those vacancies were included in pool of vacancies for third phase counseling, petitioners would have got opportunity to opt for vacancies which generated due to non-joining after first phase of counseling.

Learned advocate representing West Bengal Central School Service Commission has opposed the prayer of the petitioners by placing relevant provisions as contained in 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 "said Rules") and has submitted that it is not obligatory on the part of

the Commission to include those vacancies which are created due to non-joining after first phase of counseling in pool of vacancies for third phase counseling. What is required is utilization of those non-joining vacancies within the validity period of panel and waiting list. It is submitted that counseling process is not complete and fourth phase counseling would be conducted soon and those non-joining vacancies shall be included in pool of vacancies for next phase of counseling.

Having considered the submissions made on behalf of the parties and taking note of the provisions as contained in Rule 17 of the said Rules of 2016, it appears that Rule 17(5) specifically provides to recommend name of candidate from the waiting list strictly within the validity of the panel and waiting list for utilization on non-joining posts. It is not compulsory, so far as the Commission is concerned, to include non-joining vacancies after first phase counseling prior to conducting third phase counseling in pool of vacancies in consideration of the fact that further phase of counseling is still due and non-joining vacancies shall be included in pool of vacancies in further phase/ phases of counseling.

Therefore, the Commission by not adding those non-joining vacancies after first phase of counseling to pool of vacancies prior to third phase of counseling does not infringe the relevant provisions of the said Rules of 2016 requiring intervention of this Court since petitioners did not get opportunity to opt for those vacancies during their counseling.

Furthermore, petitioners have already been recommended for the posts of Assistant Teachers in schools based on options exercised by them during counseling.

Hence, writ petition stands dismissed.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)