

ML 94
05.05.2025
Ct. No. 18
adeb

W.P.A. 3229 of 2025

**Saidur Rahman & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Ali Ahasan Alamgir
Ms. Soma Mal
Ms. Rabia Khatoon
Ms. June Modak

...for the petitioners

Mr. Sirsanya Bandopadhyay
Ms. Tapati Samanta

...for the State

Mr. Pratik Dhar
Mr. Prasenjit Mukherjee
Ms. Madhurima Sarkar

...for the Madrasah Service Commission

Petitioners participated in 7th State Level Selection Test (Assistant Teacher) 2023 which was conducted by the West Bengal Madrasah Service Commission (hereinafter referred to as 'Commission') for appointment in the post of Assistant Teachers in Advance Arabic in Upper Primary Level of Madrasah (classes V to VIII).

Learned advocate representing the petitioners during course of hearing has submitted that apart from allegation of incorporating questions which are out of syllabus the guidelines of the Commission have not been adhered to while conducting written examination.

It is submitted that in final written examination which was held in the month of January 2025 out of 90 marks, 7 questions were out of syllabus and each question carries 1 mark. It is further submitted that petitioners are entitled to get 7 marks if these are adjudged out of syllabus questions.

Taking note of such submission made on behalf of the petitioners an order was passed on 4th March, 2025 directing Secretary of the said Commission to disclose whether 7 questions of written examination in Advance Arabic were out of syllabus or not and Commission was also directed to obtain views of subject expert before filing such report. Report is filed today in the form of affidavit affirmed on 17th April, 2025 and copy is made over to the learned advocate representing the petitioners wherefrom it appears in paragraph 7 it is specifically stated that question nos. 30, 32, 37, 59, 64, 77 and 90 under question booklet series "A" were framed within the periphery of the syllabus published by the said Commission and the allegation that those questions are out of syllabus is unfounded. It is also stated in paragraph 7 that for determination of the issue whether questions are within the syllabus or not opinion of the subject

expert was taken and such opinion of the subject expert dated 2nd April, 2025 is placed before this Court and is considered during course of hearing.

On perusal of the opinion of subject expert it appears that aforesaid 7 questions under question booklet series "A" are not out of syllabus.

While deciding the issue this Court has relied upon judgment of the Hon'ble Supreme Court reported in (2021) 2 SCC 309 (Vikesh Kumar Gupta & Anr. Vs. State of Rajasthan & Ors.). In paragraph 16 of Vikesh Kumar Gupta (supra) it has been observed that it was not open to the Division Bench to examine the correctness of the questions and the answer key to come to a conclusion different from that of the expert committee. In this regard, the judgment of the Hon'ble Supreme Court in Richal Vs. Rajasthan Public Service Commission reported in (2018) 8 SCC 81 was taken into consideration.

Case of the Commission has been fortified by the report of the subject expert. In view of the said report this Court finds further report from another subject expert is not necessary since there is no ambiguity in the report furnished by the subject expert. Moreover, on similar issue this Court has passed an order dated 17th March,

2025 passed on a writ petition being WPA 413 of 2025 (Samiun Islam Gazi Vs. The State of West Bengal & Ors.) where prayer was made to call for report from another subject expert. Said order dated 17th March, 2025 was tested in intra Court appeal being MAT 410 of 2025 (Samiun Islam Gazi Vs. The State of West Bengal & Ors.) and the Hon'ble Division Bench passed order on 8th April, 2025 thereby dismissing the appeal. In paragraph 6 of the order dated 8th April, 2025 of the Hon'ble Division Bench it has been observed that the issue would have been different if expert report is manifestly and patently erroneous and it was further observed that an expert can also commit mistake. It was held that in Pragyaduti Dutta (supra) the issue was also considered by another Division Bench. Ultimately it was held since the view expressed by the expert does not appear to be a manifest error on the face of record the Hon'ble Division Bench was not inclined to interfere the order passed by this Court.

In view of the observation made by the Hon'ble Division Bench in paragraph 6 this Court finds on perusal of the report dated 2nd April, 2025 of the subject expert that the allegation that there were 7 questions which were found to be out of syllabus as alleged by the petitioners need

not to be delved into further since no case of ambiguity is made out on behalf of the petitioner.

Report of the expert dated 2nd April, 2025 is returned to the learned advocate representing the Commission.

Hence, writ petition stands dismissed.

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

(Saugata Bhattacharyya, J.)