

Item No. – 4
20.03.2025
Rohan
Court No. 8

**In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side**

FMA 126 of 2025

**Mr. Siddhartha Majumdar, The Chairman, The West
Bengal Central School Service Commission
Versus
Subhrendu Chakraborty**

**Dr. Sutanu Kr. Patra,
Ms. Supriya Dubey.**

... for the appellant

**Mr. Pratik Dhar, Sr. Adv.,
Mr. Ujjal Ray.**

... for the respondent

1. The parties are litigating since 2013 in relation to the 12th Regional Level Selection Test commenced in the year 2011. The writ petition being WPA No. 11532 of 2013 was taken out by several participating candidates questioning the answer keys, subsequently published by the authority with regard to the Bengali, English, Child Development and Pedagogy subjects, which according to them, were unambiguous and wrong.
2. Amidst the pendency of the said writ petition, an interim order was passed appointing an expert from the relevant educational institute and directed the West Bengal Central School Service Commission to obtain the opinion of the aforesaid experts and to take suitable steps in terms thereof. It was further observed that if the answer keys to the questions in OMR sheet in Child Development and Pedagogy were found to be incorrect or more than one answer was found to be correct, the Commission would award marks to the candidate for the said question.

3. While disposing of the said writ petition on 29th June, 2022, on the basis of the aforementioned observations, direction was passed upon the Commission to extend all consequential benefits to the candidates who obtained additional marks. Subsequently, a contempt application was taken out alleging willful and deliberate violation of the said order dated 29th June, 2022 being CPAN 1050 of 2022 by some of the writ petitioners therein. The Court, while disposing of the contempt application, observed that the report so submitted would indicate that eight candidates had qualified in the Teacher Eligibility Test (TET) after re-evaluation and five had not. It was further found that the total number of successful candidates pursuant to re-evaluation had come to 73 and direction was passed upon the Chairman, School Service Commission to process their application till the recommendation stage.
4. Interestingly, submission was made on behalf of the other writ petitioners/respondents herein and the same was disposed of by the impugned order to consider the case of the respondent No. 1 for appointment to the post of an Assistant Teacher in any zone or a school which the other teachers did not wish for or opt for.
5. It is vociferously submitted by Dr. Sutanu Kumar Patra, appearing for the appellant, that the order passed in the contempt application is beyond the scope of the contempt jurisdiction and on appreciation of the facts. It is arduously submitted that the re-evaluation of the papers was in relation to a TET, 2011 having no nexus to the selection test undertaken by the Commission for filling up the post of the Assistant Teachers in different schools within the State. It is,

thus, submitted that the order impugned in the instant appeal warrants interference.

6. It is undeniable that the litigation which ensued in the year 2013, reached to its logical conclusion on 29th June, 2022 by appointing the experts of relevant subjects and directing the School Service Commission to take suitable steps in terms of the opinion of the experts with a rider that in the event, the answer keys or the questions are found incorrect or the question itself appears to be unambiguous, the marks should be awarded to the candidates for the said questions and all consequential benefits shall also follow on the basis of allotting the said additional marks. It is undeniable that the present respondent No. 1 was one of the writ petitioners in the instant writ petition and, therefore, can reap the benefit thereof.
7. The contempt application was taken out by some of the writ petitioners excepting the present respondent No. 1, where a categorical finding was returned by the learned Judge that 73 numbers of candidates were found successful and qualified for being considered to the post of Assistant Teacher and for such reason, the direction was passed upon the Commission to take steps till the stage of recommendation. The contention of Dr. Patra that it is restricted to TET having no impact or nexus to the selection process does not appear to be sound in view of a subsequent observation made in the said order dated 31st March, 2023 passed in CPAN 1050 of 2022 that one of the candidate out of 73 candidates was about to attain the age of superannuation in near future. On the basis of such submission made by Dr. Patra, the direction was passed to complete the exercise so that he can be appointed and render service for such few months. We do not find any reflection from the said order that the

said 73 candidates, who were found to be successful and qualified candidates, have to undergo a further scrutiny in the garb of a selection process/selection test. What is evident and apparent from the observations made therein is that the aforesaid 73 candidates were found eligible for recommendation to the post of an Assistant Teacher and, therefore, it is not open to the School Service Commission to take a rebound and contend that the present respondent No. 1 was unqualified having obtained less than cut-off marks fixed in the said selection test. The finding of the Court in the earlier contempt application is unambiguous and conveys a laudable intention that the said 73 qualified candidates are entitled to recommendation for the post of the Assistant Teacher and it is not open to the School Service Commission to contend otherwise. It is no longer *res integra* that the moment the learned Judge who passed the initial order has observed what could be interpreted by the words or the sentences used therein, it is not open for the other Judge or the Appellate Court to take another view except a case where there could have been no possibility of taking the view taken by the Single Bench as would be apparent from the plain and simple meaning of the words and the language used therein. Since the rights of the 73 candidates are crystallized as evident from the order passed in an earlier contempt application and the respondent No. 1 is one of the said 73 candidates, we do not find that there is any ambiguity, infirmity and/or illegality in the impugned order.

8. The appeal being **FMA 126 of 2025**, is thus, **dismissed**.

9. However, the appellant is directed to comply with the directions contained in paragraphs 5 and 6 of the impugned order within four weeks from date.
10. No order as to costs.
11. Urgent Photostat certified copy of this order, if applied for, be given to the parties within three days upon compliance with all requisite formalities.

(HARISH TANDON, J.)

(OM NARAYAN RAI, J.)