

Form No. J(2)
Item No. DL / 31
ARPAN - A.R. (CT)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
(Appellate Side)

W.P.A. No.13514 of 2025

Kartik Panday

Vs.

The State of West Bengal & Others

Before: The Hon'ble Justice Saugata Bhattacharyya

For the Petitioner : Mr. Subir Sanyal, Sr. Adv.
Mr. Ali Ahsan Alamgir, Adv.
Ms. Soma Mal, Adv.
Ms. Rabia Khatoon, Adv.
Ms. June Modak, Adv.

For the State : Mr. Susanta Pal, Adv.

For D.P.S.C., Malda : Mr. Avishek Prasad, Adv.

Heard On : 15.07.2025

Judgment On : 15.07.2025

Saugata Bhattacharyya, J.:

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.

2. Petitioner participated in the 1st State Level Selection Test, 2016 (for short, 'SLST, 2016') for classes XI-XII as well as selection process of 2009 for being appointed as Primary Teacher in the district of Malda.
3. It is submitted by Mr. Sanyal, learned Senior Advocate representing the petitioner that in both the selection processes petitioner got selected but petitioner opted to be appointed as Assistant Teacher of a higher secondary school to impart lessons to the students of classes XI and XII since such appointment in terms of service benefits and other emoluments is better option than to work as a Primary Teacher.
4. Appointment letter was issued *vide* memo dated 17th September, 2018 in favour of the petitioner by the President, West Bengal Board of Secondary Education based on which petitioner joined the post of Assistant Teacher in higher secondary section of a Government aided school in connection with his participation in 1st SLST, 2016 (for classes XI-XII). Subsequently, petitioner was favoured with appointment letter dated 28th September, 2021 in connection with his selection in 2009 recruitment process, issued by the Chairman, District Primary School Council, Malda whereby he was invited to join as Primary Teacher but petitioner chose to work as Assistant Teacher in higher secondary section of a Government aided school instead of working as Primary Teacher.
5. Petitioner lost the job of Assistant Teacher in higher secondary school in terms of the judgment of the Hon'ble Supreme Court dated 3rd April,

2025 passed on a civil appeal arising out of ***Special Leave Petition (Civil) No.9586 of 2024 (State of West Bengal vs. Baishakhi Bhattacharyya (Chatterjee) & Ors.)***. Prayer is made on behalf of the petitioner to permit him to join the post of Primary Teacher based on his selection in connection with his participation in 2009 selection process conducted by the District Primary School Council, Malda.

6. Mr. Prasad, learned advocate representing District Primary School Council, Malda (hereinafter referred to as 'DPSC, Malda') has opposed the prayer of the writ petitioner on the count that petitioner approached this Court with this writ petition on 19th June, 2025 which is much after the cut-off date, that is, 25th April, 2024 fixed by a Co-ordinate Bench while disposing of a batch of writ petitions, first one being ***WPA 25712 of 2022 (Md. Asiruddin & Ors. vs. State of West Bengal & Ors.)*** vide order dated 26th April, 2024. It is also submitted that order passed by the Co-ordinate Bench dated 26th April, 2024 was not interfered with by the Hon'ble Division Bench while disposing of two *intra-court* appeals being ***MAT 994 of 2024 (Rakhi Chakraborty vs. State of West Bengal & Ors.)*** and ***MAT 996 of 2024 (Shanaj Begum vs. State of West Bengal & Ors.)***.
7. Attention of this Court has also been drawn to paragraph 21 of the writ petition wherefrom it appears that in spite of issuance of appointment letter in favour of the petitioner for joining the post of Primary Teacher he decided not to join the said post. It is also submitted on behalf of DPSC, Malda that at this belated stage offering the post of Primary

Teacher in connection with petitioner's participation in 2009 selection process may not be permissible.

8. State respondents are represented by learned advocate who adopts the submissions made on behalf of the DPSC, Malda.
9. Having considered the submissions made on behalf of the parties, issue needs to be decided whether cut-off date fixed by the Co-ordinate Bench *vide* order dated 26th April, 2024, that is 25th April, 2024 impedes the authority in appointing the petitioner as Primary Teacher or not.
10. On careful reading of the order dated 26th April, 2024 it appears that on a particular fact situation the Co-ordinate Bench found it fit to fix the cut-off date stipulating two conditions - first, candidate must have been called for the interview process in connection with 2009 selection process for being appointed as Primary Teacher and second, approach should have made to this Court by filing writ petition on or before 25th April, 2024. It was decided if these two conditions are fulfilled in that event, particular candidate needs to be appointed as Primary Teacher in a school in the district of Malda.
11. In the present case, fact situation is totally different where petitioner not only participated in the interview process but also he was selected and appointment letter was issued in his favour on 28th September, 2021 in connection with his participation in 2009 selection process. When the appointment letter was issued petitioner was working as an

Assistant Teacher in a higher secondary school as a result whereof he chose not to join the post of Primary Teacher based on appointment letter dated 28th September, 2021 as in terms of service benefits and other emoluments functioning as Assistant Teacher in higher secondary section of a Government aided school is better option than to work as a Primary Teacher.

12. However, petitioner lost his job in terms of the judgment of the Hon'ble Supreme Court dated 3rd April, 2025 passed in ***Baishakhi Bhattacharyya (Chatterjee) (supra)*** which prompted the petitioner to approach this Court seeking direction, which would permit him to join as Primary Teacher since he was selected in 2009 selection process conducted by DPSC, Malda and an appointment letter in his favour was also issued on 28th September, 2021. Therefore, fixation of cut-off date by the Co-ordinate Bench *vide* order dated 26th April, 2024 does not apply in the present case considering aforesaid special circumstances.
13. Case at my hand is better than the writ petitions which were being considered by the Co-ordinate Bench and disposed of *vide* order dated 26th April, 2024 wherein it was found that the candidates by merely participating in the interview process needs to be appointed provided those candidates approached this Court on or before 25th April, 2024.
14. It is also submitted on behalf of the petitioner that he is an 'untainted' candidate as a result whereof he is still working as Assistant Teacher in higher secondary section of a Government aided school but that is only

up to 31st December, 2025. Fact remains petitioner lost his job and the case of the petitioner is required to be considered sympathetically.

15. It is also an admitted position that vacancies are available for the posts of Primary Teacher in the district of Malda in connection with the selection process of 2009.
16. Therefore, in the aforesaid special facts and circumstances concerned authority of DPSC, Malda is directed to appoint the petitioner as Primary Teacher by issuing fresh appointment letter within a period of four (4) weeks from the date of communication of this order provided petitioner is 'untainted' candidate.
17. Petitioner is granted leave to appear before the Chairman, DPSC, Malda being respondent no.9 with his credentials within a period of fortnight from the date of communication of this order in order to substantiate that he is 'untainted' candidate. After scrutiny of credentials of the petitioner appointment letter is to be issued by the concerned authority of DPSC, Malda within the aforesaid time.
18. If any formal approval is necessary, the Commissioner of School Education, West Bengal being respondent no.2 is directed to grant such approval within a period of seven (7) days after credentials of the petitioner are examined by the respondent no.9.
19. With the above directions, writ petition stands disposed of.

20. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)