

10.07.2025
Court No. 18
Item No. 06
(Suvendu)

WPA 14997 of 2025

Misbahul Islam & Anr.
-Versus-

The State of West Bengal & Ors.

Mr. M.R. Shamshad, Sr. Advocate,
Mr. Uday Sankar Chattopadhyay
Mr. Suman Sankar Chattopadhyay
Mr. Pronoy Basak
Ms. Aiswarya Datta
Mr. Trish Rakshit
Mr. Rajarshee Tah
.....for the petitioners

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

Mr. Kalyan Bandyopadhyay, Sr. Advocate,
Mr. Biswaroop Bhattacharya
Mr. Rahul Singh
...for the WBCSSC

Mr. Sirsanya Bandyopadhyay
Mr. Arka Kumar Nag
.....for the State

- 1) Affidavit-of-service filed on behalf of the petitioners is taken on record.
- 2) Matter is heard in presence of Mr. M.R. Shamshad, learned Senior Advocate representing the petitioners who appears on virtual mode and Mr. Kalyan Bandyopadhyay, learned Senior Advocate representing West Bengal Central School Service Commission (for short, “WBCSSC”) as well as Mr. Sirsanya

Bandyopadhyay, learned Senior Standing Counsel representing State respondents.

3) Petitioners are seeking to be treated as OBC (OBC –A) candidates since previously candidates who were under the category of petitioners were treated as OBC –A category candidates. It is submitted that treating the petitioners as OBC candidates if opportunity would have been extended to them to offer their candidature in terms of recruitment notification dated 30th May, 2025 for filling up posts of Assistant Teachers in that event they would have received some relaxation in terms of age as well as minimum percentage of qualifying marks in graduation and post-graduation level. However, learned Senior Advocate representing the petitioners have fairly submitted that there are certain observations made by the Hon’ble Division Bench in the order dated 17th June 2025 passed on a batch of writ petitions first one being **WPA (P) 111 of 2025 (Amal Chandra Das Vs. State of West Bengal & Ors.)** which may create impediment in treating the petitioners at present as OBC candidates. It is also submitted that a Special Leave Petition has been preferred by the State Government and same would be heard by the Hon’ble Supreme Court soon.

Lastly, it is contended that taking note of aforesaid situation petitioners may be permitted to apply as OBC candidates if necessary by extension of time.

4) Attention of this Court has been drawn to the order passed by the Hon'ble Supreme Court on 17th April, 2025 on Miscellaneous Application No.709 of 2025 in Civil Appeal No. 4805 of 2025 which was taken out by the West Bengal Board of Secondary Education and it is submitted that Hon'ble Supreme Court has fixed time schedule relating to issuance of recruitment notification and conclusion of recruitment process by 31st May, 2025 and 31st December, 2025 respectively but no cut-off date has been fixed relating to date of submission of application for offering candidature.

5) Mr. Bandyopadhyay, learned Senior Advocate representing the Commission has made submission based on observation made by the Hon'ble Division Bench in the order dated 17th June, 2025 passed in **Amal Chandra Das** (supra) wherein Hon'ble Division Bench did not interfere with the executive order classifying sixty-six classes who come under OBC category prior to 2010 in reference to previous judgment dated 22nd May, 2024. It was also recorded in

paragraph 17 that judgment dated 22nd May, 2024 delivered by the Hon'ble Division Bench was not interfered with by the Hon'ble Supreme Court and as such there can be no hindrance in conducting the recruitment process as well as admission process taking into consideration sixty-six classes of OBCs as existing prior to 2010. It is submitted on behalf of the Commission that though Special Leave Petition questioning order dated 17th June, 2025 of the Hon'ble Division Bench is pending for consideration before the Hon'ble Supreme Court there is no alteration of situation as discussed in paragraph 17 of the order of the Hon'ble Division Bench dated 17th June, 2025 as on date. It is contended on behalf of the Commission as well as State respondents so far as recruitment notification dated 30th May, 2025 is concerned, which has been issued in terms of judgment of the Hon'ble Supreme Court dated 3rd April, 2025 read with subsequent order dated 17th April, 2025, no categorization has been made so far as candidates who would apply for the post of Assistant Teachers in Government aided schools.

6) Taking note of respective submissions made on behalf of the parties, this Court finds that during pendency of the Special Leave

Petitions one against judgment dated 22nd May, 2024 delivered by the Hon'ble Division Bench and another against order dated 17th June, 2025 passed by the same Hon'ble Division Bench at this stage petitioners are at liberty to apply in terms of said recruitment notification dated 30th May, 2025 provided they fulfill eligibility criteria as stipulated in the said recruitment notification. The prayer made on behalf of the petitioners to extend the time to submit applications in terms of recruitment notification dated 30th May, 2025 cannot be acceded to in view of the direction as contained in the order dated 17th April, 2025 passed in Miscellaneous Application No.709 of 2025 in Civil Appeal No. 4805 of 2025. If last date of submitting application is extended at this juncture cascading effect would be extension of time beyond 31st December, 2025 in order to bring the selection process into logical conclusion.

7) However, respondents are at liberty to file affidavit-in-opposition to this writ petition by three weeks from date. Reply thereto, if any, be filed by one week thereafter.

8) Parties shall be at liberty to mention the matter before the appropriate Bench for hearing

after the time fixed hereinabove for exchanging affidavits.

(Saugata Bhattacharyya, J.)