

16 02.09.2025
SM Court No.759

WPA 18326 of 2025

**Tapan Kumar Gayen & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Somesh Kumar Ghosh	... for the petitioners
Mr. Ratul Biswas	
Mr. Kaushik Chowdhury	... for the W.B.B.P.E.
Mr. Gourav Das	... for the D.P.S.C., South 24-Parganas
Ms. Dipanwita Ganguly	... for the State

The petitioners before this Court are serving as Assistant Teachers in various Primary Schools under the South 24-Parganas District Primary School Councils. They were selected pursuant to the recruitment process initiated in the year 2009 and appointed under various orders of this Court.

The grievance raised is that many of such appointees either:

- a) possess only Madhyamik (Class 10th) qualification without Higher Secondary; or
- b) possess Higher Secondary qualification but with less than 50% marks; or

c) possess Higher Secondary with 50% and above, but without the requisite two-year Diploma in Elementary Education (D.El.Ed) mandated by the Right of Children to Free and Compulsory Education Act, 2009 and the Regulations framed by the National Council for Teacher Education (NCTE).

These petitioners seek permission to acquire their academic and/or training qualifications while continuing in regular service and to draw their due salary during such period.

This Court notes that by order dated 11th July, 2024 passed in WPA 17597 of 2024 (Santanu Paul & Ors. vs. State of West Bengal & Ors.), a co-ordinate Bench of Hon'ble Justice Rajasekhar Mantha had already held that the absence of 50% marks in Higher Secondary "shall not stand in the way" of the writ petitioners therein undergoing the two-year D.El.Ed. course and that they may do so in Government Recognised Self-Financed Private institutions, in addition to Government Sponsored and Government Aided PTTIs and DIETs, as a special case in view of the special circumstances of their recruitment under orders of this Court and the Hon'ble Supreme Court.

By subsequent orders in WPA 18173 of 2024

(Kesto Singh & Ors. vs. State of West Bengal & Ors.), similar reliefs were extended to other in-service untrained teachers, including those with Madhyamik qualification, waiving the district-wise bar for admission to training.

The present petitioners, however, were appointed later in 2025 pursuant to the same recruitment process of 2009, thus missing the window for admission to the 2024–2026 D.El.Ed session despite being similarly situated in all material respects to those covered by the aforesaid orders.

The Court has considered that the recruitment process commenced in 2009, thereafter selections were delayed for over fourteen (14) years due solely to inaction of the authorities. As the petitioners stand on identical factual and legal footing to those already granted relief and mandatory training qualifications arise from circumstances beyond their control, this Court is of the view that equal treatment under Article 14 of the Constitution of India mandates that the petitioners and other similarly situated teachers, are to be extended the same benefits already granted to their batchmates, with necessary modifications to ensure compliance with statutory requirements while avoiding

disruption to educational services.

Accordingly, the Court directs that:

A) For teachers with only Madhyamik qualification:

I) They shall be permitted to pursue and complete Higher Secondary (10+2 or equivalent) qualification through recognised Open Schooling or other approved modes while continuing in service;

II) Upon enrolment and as per eligibility under NCTE regulations (with necessary relaxation hereby granted as a special case), the petitioners shall be admitted to and complete the two-year Diploma in Elementary Education (D.El.Ed) course through any Government Sponsored, Government Aided or Government Recognised Self-Financed institutions, in regular or Open/Distance Learning (ODL) mode, without any service interruption.

B) For teachers with Higher Secondary qualification (with or without 50% marks):

I) They shall be permitted to enrol in and complete the two-year D.El.Ed course in the current session from any of the recognised institutions as above;

II) The minimum marks criteria in Higher

Secondary, as prescribed under the NCTE Regulations, are hereby relaxed for these in-service teachers recruited through the 2009 process under Court orders, as a special case.

C) Salary and service benefits during training:

I) All categories of such in-service teachers shall continue to receive their regular salary, allowances, increments and other service benefits during the entire period of pursuing Higher Secondary and/or the D.El.Ed course;

The Commissioner of School Education, West Bengal, in consultation with the West Bengal Board of Primary Education (WBBPE) and all concerned District Primary School Councils, shall forthwith publish on their respective websites a consolidated list of eligible untrained teachers along with recognised institutions, including Government Sponsored, Government Aided and Government Recognised Self-Financed institutions, offering the D.El.Ed course. Admission shall be allowed with preference to availability within the teachers' home districts and, if not possible, in nearby districts so as to ensure minimal hardship. The entire admission process, including the relaxation of academic eligibility conditions, must be completed within twelve (12) weeks

from the date of communication of this order. The Commissioner of School Education shall also file a compliance affidavit before this Court within fourteen (14) weeks, detailing the steps taken and the admissions completed.

The relaxation and directions contained herein are issued only for those in-service primary teachers appointed pursuant to the recruitment process initiated in 2009, whether appointed earlier or pursuant to later court directions and shall not be treated as a precedent for future recruitment cycles.

With the following directions, the writ petition being WPA 18326 of 2025 stand disposed of.

Since no affidavit is called for, the allegations made in the writ petition are deemed to have been denied.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajarshi Bharadwaj, J.)