

Form No. J.(2)
Item No. DL/20
ARPAN - AR (CT)

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

W.P.A. NO.20211 OF 2025

ASRAF SHAIKH

Vs.

THE STATE OF WEST BENGAL & OTHERS

BEFORE: THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

For the Petitioner : Mr. Shuvro Prokash Lahiri, Adv.
Mr. Ankan Mondal, Adv.

For the State : Mr. Susanta Pal, Adv.

For W.B.C.S.S.C. : Dr. Sutanu Kumar Patra, Adv.
Ms. Supriya Dubey, Adv.

Hearing concluded on : 24.09.2025

Judgment On : 24.09.2025

Saugata Bhattacharyya, J.:

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. Petitioner participated in two selection processes, namely, 1st State Level Selection Test, 2016 for Classes IX & X and also 1st State Level

Selection Test, 2016 (Upper Primary) for being appointed as Assistant Teacher in upper primary level of classes.

3. It needs to be recorded herein in view of submission made on behalf of the petitioner that petitioner was selected in both the selection processes for being counseled in order to offer job of Assistant Teacher for Classes IX & X in connection with 1st SLST, 2016 and for Upper Primary Level of Classes in connection with 1st SLST, 2016 (Upper Primary).

4. Petitioner opted to be appointed as an Assistant Teacher in secondary section of a Government aided recognized school since according to the petitioner it was better opportunity for him to work as an Assistant Teacher in secondary section rather than working in upper primary level of classes as that would have been beneficial in terms of payment of salaries and other emoluments.

5. The selection process *i.e.* 1st SLST, 2016 for Classes IX & X has been set aside by the Hon'ble Supreme Court *vide* judgment dated 3rd April, 2025 delivered in appeal arising out of ***Special Leave Petition (Civil) No. 9586 of 2024 (State of West Bengal vs. Baishakhi Bhattacharyya (Chatterjee) & Others)***. Subsequently, petitioner has approached this Court with the present writ petition in order to permit him to participate in the counseling process being an eligible candidate for being selected for the post of Assistant Teacher for upper primary level of classes in view of petitioner's participation in 1st SLST, 2016 (Upper Primary).

6. It is submitted that petitioner is an eligible candidate in terms of his respective merit position in the list for participation in counseling.

7. It is also submitted on behalf of the petitioner if without diluting merit petitioner comes within the zone of consideration, he should be permitted to participate in the next counseling if held by the West Bengal Central School Service Commission.

8. Dr. Patra, learned advocate representing the West Bengal Central School Service Commission (hereinafter referred to as '*Commission*') has opposed the prayer of the petitioner to allow him to participate in the counseling process in connection with 1st State Level Selection Test, 2016 (Upper Primary) since petitioner, in spite of being permitted to participate in the previous round of counseling, did not turn up.

9. It is also submitted at this stage, if petitioner is permitted to participate in the counseling and if he comes within the zone of consideration that would make the entire process topsy-turvy. It is submitted that a stand has been taken on behalf of the Commission that absentee candidates are not to be permitted to participate in the next counseling.

10. Another limb of submission made on behalf of the Commission is if petitioner is permitted to participate in the next counseling, a candidate who has already been chosen for counseling would be ousted. It is also contended that participation of petitioner in counseling will also depend

upon availability of nature of vacancies against which petitioner had applied.

11. First before considering the issue raised in this writ petition this Court needs to find out whether petitioner is untainted candidate or not in connection with the selection process of 1st SLST, 2016 for Classes IX & X since in terms of the judgment of the Hon'ble Supreme Court dated 3rd April, 2025, tainted candidates have no right to offer their candidature in fresh selection process.

12. In this regard, it is submitted on behalf of the petitioner that he has been permitted to continue as an Assistant Teacher till 31st December, 2025 which goes to show that till date petitioner has not been identified as tainted candidate in connection with 1st SLST, 2016 for Classes IX & X.

13. This Court needs to consider the issue in view of special facts and circumstances where petitioner has lost job since entire selection process *i.e.* 1st SLST, 2016 for Classes IX & X and XI & XII has been set aside by the Hon'ble Supreme Court *vide* judgment dated 3rd April, 2025.

14. It needs to be taken into consideration that petitioner also participated in 1st SLST, 2016 for upper primary level of classes, where he was selected but he did not participate in the previous round of counseling since at the material point of time petitioner was working as an Assistant Teacher in secondary section on being selected in the selection process *i.e.* 1st State Level Selection Test, 2016 for Classes IX & X.

15. Subsequently, petitioner has lost job after the said selection process has been declared illegal which triggered the present writ petition and a prayer is made to permit him to participate in the next counseling if held by the Commission.

16. In view of aforesaid scenario, concerned authority of the West Bengal Central School Service Commission is directed to permit the petitioner to participate in the next counseling, if held in connection with 1st SLST, 2016 (Upper Primary) in the event petitioner comes within the zone of consideration in terms of his merit position in the list and if petitioner is not a tainted candidate. However, participation of the petitioner in the counseling shall depend upon availability of nature of vacancies against which petitioner had applied.

17. The concerned authority of the Commission at the time of counseling shall verify credentials of the petitioner.

18. With the aforesaid observations and directions writ petition stands disposed of.

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

(Saugata Bhattacharyya, J.)