

Form No. J(2)
Item Nos. DL / 4-7
Suwendu – A.R.(CT)

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

W.P.A. NO 20845 OF 2025

SAMPA GHOSH

VS.

STATE OF WEST BENGAL & OTHERS

WITH

W.P.A. NO 20861 OF 2025

SOMNATH MUKHERJEE & ANR.

VS.

THE STATE OF WEST BENGAL & OTHERS

WITH

W.P.A. NO 20863 OF 2025

NABIN BERA & ANR.

VS.

STATE OF WEST BENGAL & OTHERS

WITH

W.P.A. NO 20877 OF 2025

BIKASH PATRA & ORS.

VS.

**THE WEST BENGAL CENTRAL SCHOOL
SERVICE COMMISSION & OTHERS**

BEFORE: THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

For the Petitioners : Mr. Sakya Sen
Mr. Anindya Lahiri
Mr. Partha Sarathi Deb Barman
Mr. Arkadipta Senbgupta
Mr. Tirthankar Dey
Ms. Pranati Das
Mr. Subhomoy Paul
Mr. Anish Chakraborty
Mr. N. Chowdhury
Mr. Rishav Deb Barman
Ms. Ria Naskar

For the State : Mr. Sirsanya Bandopadhyay
Mr. Sandip Dasgupta
Ms. Mohima Cholera
Mr. Niket Ojha
Ms. Sumita Shaw
Mr. Soumen Chatterjee

For the WBCSSC : Mr. Kalyan Bandyopadhyay
Mr. Biswaroop Bhattacharyya
Ms. Pranati Bandyopadhyay
Mr. Arka Kumar Nag
Mr. Rahul Kumar Singh

For Board : Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta

Heard on : 02.09.2025

Judgment on : 02.09.2025

SAUGATA BHATTACHARYYA, J.:

- 1) All the writ petitions are taken up together for consideration since common issue is involved.

- 2) Affidavits of service filed on behalf of the petitioners are taken on record.
- 3) Writ petitions are filed questioning the list containing names of tainted candidates which was published vide memo dated 30th August, 2025 issued by the Secretary, West Bengal Central School Service Commission (for short, "Commission"). List dated 30th August, 2025 features names of 1804 (one thousand eight hundred and four) candidates who have been declared as tainted candidates in connection with their participation in 1st State Level Selection Test, 2016 (for short, "1st SLST, 2016") for Classes IX-X and XI-XII.
- 4) At the outset, it needs to be recorded that in terms of order of the Hon'ble Supreme Court dated 28th August, 2025 passed on **Special Leave to Appeal (C) No. 23784 of 2025 (Bejoy Biswas & Ors. Vs. State of West Bengal & Ors.)** said list dated 30th August, 2025 was published by the Commission.
- 5) As per case presented on behalf of the petitioners they either participated in 1st SLST, 2016 for Classes IX-X or 1st SLST, 2016 for Classes XI-XII but they lost job in terms of the judgment of the Hon'ble Supreme Court 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)** since entire selection process was declared null and void on finding egregious illegalities.
- 6) According to the petitioners after recruitment notification was published on 30th May, 2025 on promulgation of the West Bengal

School Service Commission (Selection for Appointment to the Posts of Assistant Teachers for Upper Primary Level of Classes [except Work Education and Physical Education] Classes IX-X and Classes XI-XII) Rules, 2025 (hereinafter referred to as “said Rules of 2025”) Admit Cards were issued to them but based on the list dated 30th August, 2025 issued by the Commission containing names of tainted candidates their Admit Cards were cancelled, which prompted them to come before this Court with the present writ petitions.

7) Mr. Anindya Lahiri and Mr. Sakya Sen, learned Senior Advocates representing the petitioners have placed reliance on the judgment dated 22nd April, 2024 delivered by the Hon’ble Division Bench on a batch of matters first one being **WPA 30649 of 2016 (Baishakhi Bhattacharyya (Chatterjee) & Ors. Vs. State of West Bengal & Ors.)** in order to contend that petitioners are not coming under the category of tainted candidates as defined in paragraph 363 (iv) of the said judgment. It is further contended that as per observations made by the Hon’ble Division Bench in the judgment dated 22nd April, 2024 persons who had been appointed outside the panel or after expiry of panel or who submitted blank OMR sheets ought to be treated as tainted candidates but petitioners are not coming under those categories. Therefore cancellation of their Admit Cards by publication of list on 30th August, 2025, was not warranted.

8) In addition thereto, reliance is placed on observations made by the Hon’ble Supreme Court in the judgment dated 3rd April, 2025 delivered in **Baishakhi Bhattacharyya (Chatterjee)** (supra) where in

paragraph -31 it was discussed that it was not significant so far cases of rank jumping and direction given by the High Court to appoint candidates after expiry of the validity of the panel at the stage when Court was not aware of illegalities of appointment procedure. Based on several considerations including rank jumping and appointment of candidates after expiry of validity of panel ultimately conclusion was derived in paragraph 45 of the judgment dated 3rd April, 2025 by the Hon'ble Supreme Court wherein it was held that there was no valid ground or reason to interfere with the direction of the High Court that the services of tainted candidates, where appointed, must be terminated and they should be required to refund any salaries/payments received.

9) It is also submitted on behalf of the petitioners that observations made by the Hon'ble Division Bench in the judgment dated 22nd April, 2024 specially in paragraph 363 (iv) were not interfered with by the Hon'ble Supreme Court in its judgment dated 3rd April, 2025. Therefore, identification of tainted candidates needs to be based on three categories as delineated in paragraph 363(iv) of the judgment of the Hon'ble Division Bench dated 22nd April, 2024 and not beyond those categories.

10) According to the petitioners, some of the candidates were allowed to continue their service but they were appointed after expiry of the panel and their names do not feature in the list dated 30th August, 2025.

11) On the contrary, Mr. Kalyan Bandyopadhyay, learned Senior Advocate representing the Commission submits that apart from aforesaid three categories of tainted candidates as described in paragraph 363 (iv) of the judgment of the Hon'ble Division Bench dated 22nd April, 2024 other categories of tainted candidates involving rank jumping and candidates identified by Central Bureau of Investigation (CBI) were taken into consideration by the Hon'ble Supreme Court in the judgment dated 3rd April, 2025 delivered in **Baishakhi Bhattacharyya (Chatterjee)** (supra) as it appears from paragraphs 25 and 26 of the said judgment. It is specifically submitted that list of tainted candidates dated 30th August, 2025 was also prepared based on report of CBI indicating that there were cases of OMR mismatches and the Commission found them as tainted candidates consequently those candidates were included in the list dated 30th August, 2025.

12) According to the Commission, categories of tainted candidates ought not to be confined to the categories as contained in paragraph 363 (iv) of the judgment of the Hon'ble Division Bench dated 22nd April, 2024.

13) It is also submitted on behalf of the Commission that an order was passed by the Hon'ble Supreme Court on **Miscellaneous Application No.709 of 2025 in Civil Appeal No. 4805/2025 [West Bengal Board of Secondary Education Vs. Baishakhi Bhattacharyya (Chatterjee) & Ors.]** on 17th April, 2025 whereby the Hon'ble Supreme Court permitted only untainted Assistant Teachers

to continue to function till 31st December, 2025. Authorities in terms of the order of the Hon'ble Supreme Court dated 17th April, 2025 after identifying untainted candidates permitted only them to work as Assistant Teachers till 31st December, 2025, not others. None of the petitioners before this Court today are presently working as Assistant Teachers in their respective schools based on their selection in 1st SLST, 2016 for Classes IX-X and XI-XII. Therefore petitioners may not be treated as untainted teachers.

14) Reliance is placed on two orders of the Hon'ble Supreme Court, one dated 28th August, 2025 passed in **Bejoy Biswas** (supra) and order dated 29th August, 2025 passed in **Special Leave Petition (Civil) Diary No. 46049/25 (Bibek Paria & Ors. Vs. The State of West Bengal & Ors.)**.

15) It is contended that in terms of aforesaid two orders dated 28th August, 2025 and 29th August, 2025 list dated 30th August, 2025 was published by the Commission containing names of tainted candidates and both the matters are pending before the Hon'ble Supreme Court.

16) On consideration of egregious illegalities and fraud as found by the Hon'ble Supreme Court in the judgment dated 3rd April, 2025 delivered in **Baishakhi Bhattacharyya (Chatterjee)** (supra) categorization of tainted candidates as made by the Hon'ble Division Bench in paragraph 363(iv) of the judgment dated 22nd April, 2024 is probable categorization, there can be other good reasons for finding tainted candidates. In consideration of gamut of illegalities and

irregularities found by the Hon'ble Supreme Court and Hon'ble Division Bench, it is permissible to infer that there are different categories of tainted candidates beyond the stipulations contained in paragraph 363 (iv) of the judgment of the Hon'ble Division Bench dated 22nd April, 2024.

17) Today it is submitted on behalf of the Commission that as per CBI report there are cases of OMR mismatches and the candidates involved therein are identified as tainted candidates and this Court does not find fault with such exercise.

18) Moreover, not a single petitioner before this Court was permitted to function as Assistant Teacher in terms of the order of the Hon'ble Supreme Court dated 17th April, 2025 passed on **Miscellaneous Application No.709 of 2025 in Civil Appeal No. 4805/2025 [West Bengal Board of Secondary Education Vs. Baishakhi Bhattacharyya (Chatterjee)]**. Vide said order dated 17th April, 2025 Assistant Teachers for Classes IX-X and Classes XI-XII who were not found to be tainted were permitted to function in their respective schools for the academic interest of the students taking note of lack of teachers in the schools. But at the same time, Hon'ble Supreme Court framed time schedule for bringing the fresh selection process to its logical conclusion, which is by 31st December, 2025. As per said order dated 17th April, 2025 since only untainted teachers were permitted to work as Assistant Teachers till 31st December, 2025 excluding the present petitioners, this Court has no hesitation in refusing their contentions claiming to be untainted teachers.

19) It needs to be recorded herein when untainted teachers were permitted to continue their services till 31st December, 2025 just after the order was passed on 17th April, 2025 by the Hon'ble Supreme Court present petitioners did not raise any demur, at least that is not demonstrated before this Court today.

20) It is important to note herein that the Hon'ble Supreme Court in the order passed in **Bejoy Biswas** (supra) recorded the submission of the learned Senior Advocate appearing for the Commission that the list of tainted candidates who were selected, whose selection was set aside by the Hon'ble High Court and confirmed by the Hon'ble Supreme Court, would be placed in the public domain, that is, on the website of the Commission within seven days. That order was further considered by the Hon'ble Supreme Court in the order dated 29th August, 2025 passed in **Bibek Paria** (supra) and following observations were made which run infra:-

“As we have already directed that the list of tainted candidates should be placed in the public domain within a period of seven days, vide our order dated 28.08.2025 passed in SLP (C) No. 23784/2025, we also take on record the statement of the learned senior counsel appearing for the Commission that none of the tainted candidates would be permitted to appear in the selection tests scheduled to held on 07.09.2025 and 14.09.2025. He further states that if any tainted candidates slips through the net and manages to appear for the test(s), the notice dated 25th August, 2025 issued by the Commission stating that eligibility/ ineligibility of candidates would be examined in the post-examination stage would come to the aid of the

Commission in weeding out such tainted candidates, who are wholly ineligible in terms of the judgment passed by this Court in The State of West Bengal & Ors. Vs. Baishakhi Bhattacharyya (Chatterjee).”

- 21) **Special Leave to Appeal (C) No. 23784/2025 [Bejoy Biswas (supra)]** and **Special Leave Petition (Civil) Diary No. 46049/2025 [Bibek Paria (supra)]** are pending for further consideration before the Hon’ble Supreme Court, in connection with which list dated 30th August, 2025 was published containing names of tainted candidates. Therefore, this Court finds these are not fit cases where Court should interfere with the list dated 30th August, 2025 containing names of tainted candidates when the Hon’ble Supreme Court is in *seisin* of the matters as aforesaid.
- 22) Hence, writ petitions stand dismissed.
- 23) There shall be no order as to costs.
- 24) Urgent photostat certified copy of this judgment and order, if applied for, be given to the parties on usual undertakings.

(Saugata Bhattacharyya, J.)