

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT /CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

P r e s e n t :

The Hon'ble Justice Tapabrata Chakraborty

And

The Hon'ble Justice Partha Sarathi Chatterjee

FMA 1123 of 2024

with

IA No. CAN 1 of 2025

Hafizur Rahaman
- Versus -

The State of West Bengal & Ors.

For the appellant	:	Mr. Chittopriya Ghosh, Mr. Somesh Kumar Ghosh, Mr. Sourojit Mukherjee.
For the State	:	Mr. Bhaskar Prasad Vaisya, Mr. Sagnik Chatterjee.
For the W.B.B.P.E.	:	Mr. Ratul Biswas, Mr. Kaushik Chowdhury.
Heard on	:	09.12.2025
Judgment on	:	09.12.2025

Partha Sarathi Chatterjee, J. :-

1. Challenged in this appeal is the order dated 18th July, 2024, passed in WPA 17588 of 2024, a writ petition preferred by the writ petitioner/appellant (hereinafter referred to as “the appellant”), primarily seeking a direction upon

the West Bengal Board of Primary Education (for short, “the Board”) to consider the petitioner as an OBC-A exempted category candidate in the recruitment process initiated in 2020 or 2022 for filling up the post of Assistant Teacher in primary education. However, by the said order dated 18th July, 2024, the writ petition was dismissed.

2. The facts leading to the institution of the present appeal are that the appellant belongs to the OBC category. He passed the Higher Secondary Examination, subsequently cleared the Teacher Eligibility Test in 2014, and completed the D.El.Ed. course for the academic session 2015–2017. Vide a proceeding being LA Case No. 39 (IV)/07-08, a piece of land belonging to the appellant’s mother was acquired, and the declaration under Section 6 of the Land Acquisition Act, 1894 was published on 27th October, 2009.
3. Following such acquisition, the petitioner applied for a certificate declaring him as a candidate under the exempted category. However, the certificate was issued only in 2024, almost 15 years later. The petitioner intended to participate in the recruitment processes initiated in 2020 and 2022 for the post of Assistant Teacher. However, due to the delayed issuance of the certificate, he could not be considered as a candidate belonging to the OBC-A exempted category for the post of Assistant Teacher in those recruitment processes.
4. In view thereof, the petitioner submitted a representation requesting the Board to consider him as a candidate belonging to the OBC-A exempted category in the recruitment processes initiated by the Board in 2020 or 2022. However, since no effective steps were taken despite receipt of the said representation, the petitioner was compelled to file the writ petition. By the

order impugned in this appeal, the writ petition was dismissed. Hence, the present appeal.

5. Mr. Ghosh, learned advocate for the appellant, submits that once the land belonging to the petitioner's family was acquired, the petitioner automatically came under the exempted category. Had the concerned authority issued the certificate declaring the petitioner to be an exempted category candidate in time, he would have been able to participate in the recruitment processes of 2020 or 2022 as a candidate under the exempted category.
6. He asserts that due to the delayed issuance of the certificate, the petitioner has been deprived of the opportunity to apply as a candidate under the exempted category. He further submits that in 2025 the Board has initiated another selection process, but by this time the petitioner has crossed the upper age limit and is now unable to submit his candidature for the post. He submits that, considering these aspects, the Board be directed to grant relaxation of the upper age limit to the petitioner to enable him to participate in the recruitment process initiated in 2025 as an OBC-A exempted category candidate by treating it as a special case.
7. Mr. Biswas, learned advocate for the Board, vehemently opposes the contentions raised on behalf of the appellant. He submits that the delay in issuing the certificate cannot be attributed to the Board, and that the Board is not responsible for such delay. He further submits that the petitioner participated in the recruitment processes initiated in 2020 and 2022, and his candidature was duly considered in accordance with law.

8. He contends that the petitioner has by now crossed the upper age limit, and such age limit, being inflexible in nature, cannot be relaxed merely at the request of a candidate.
9. He submits that the recruitment processes of 2020 and 2022 have already concluded, and that granting such relaxation to the petitioner at this stage would open the floodgates. He further contends that once a candidate applies under the unreserved category, he cannot subsequently seek the benefit of reservation on the ground that the requisite certificate was obtained later. In support of this submission, he relies on an unreported decision of a co-ordinate Bench of this Court rendered in MAT 87 of 2024 (*The Secretary, West Bengal Board of Primary Education & Anr. vs. Soma Saha Biswas & Ors.*).
10. Heard the learned advocates appearing for the respective parties and perused the materials on record.
11. Indisputably, the land belonging to the petitioner's family was acquired in 2009, and the certificate declaring the petitioner to be a candidate under the exempted category was issued only in 2024. However, the Board, which is responsible solely for taking steps to fill up the post of Assistant Teacher, cannot be held responsible for the delay in issuing such certificate. In 2020 and 2022, the petitioner participated in the recruitment processes as a candidate belonging to the OBC-A category. In 2025, the Board has also initiated another selection process; but by this time, the petitioner has crossed the upper age limit, and the Board had no authority to grant relaxation of the upper age limit.

12. In view of the above, no direction can be issued to the Board to grant age relaxation in favour of the petitioner. The petitioner had participated in the selection processes initiated in 2020 and 2022 as an OBC candidate. Applying the proposition laid down in *J & K Public Service Commission vs. Israr Ahmad & Ors.*, (2005) 12 SCC 498, as referred to in *The Secretary, West Bengal Board of Primary Education & Anr.* (supra), which holds that a candidate who participates in an examination as a general category candidate cannot subsequently claim the benefit of reservation on the basis of a certificate obtained later, we are of the view that no direction can be issued to treat the petitioner as an OBC-A exempted category candidate in respect of the recruitment processes of 2020 or 2022, both of which have already concluded. For the same reasons, no direction can be issued to grant relaxation of the upper age limit to enable the appellant to participate in the recruitment process of 2025.
13. In view thereof, we find no reason to interfere with the order impugned in this appeal. Accordingly, the appeal and the connected application stand dismissed. There shall, however, be no order as to costs.
14. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.)

(Tapabrata Chakraborty, J.)