

11.12.2025
Sl. No.1(DL)
Ct. No.14
srm

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA No. 23943 of 2025

Rajkumar Yadav & Ors.

Versus

The State of West Bengal & Ors.

Mr. Sudipta Dasgupta,
Mr. Sutirtha Nayek,
Ms. Suryatapa Das,
Ms. Srijani Chakrabarti,
Mr. Arindam Shit

...for the Petitioners.

Mr. Subir Sanyal, Id. Sr. Adv.
Mr. Dwarikanath Mukerjee,
Mr. Ratul Biswas,
Mr. Kaushik Chowdhury

...for WBBPE.

Mr. Piyush Chaturvedi,
Mr. Chittapriya Ghosh,
Mr. Somesh Kumar Ghosh,
Ms. Priyanka Saha,
Mr. Sourajit Mukherjee

...for the Added Respondent
Nos.8 to 11.

Mr. Subrata Dasgupta

...for the State.

1. This matter is appearing in the list under the heading
“*For Orders*”.
2. By the present writ petition, the petitioners seek
direction upon the respondent authorities, namely,
the respondent Nos.2, 3 and 4 to immediately
complete the Diploma in Elementary Education (*in
short, ‘D.El.Ed.’*) course 2023-25 within stipulated
time; and to declare the results forthwith before the

filling up of online application forms for recruitment process initiated *vide* notification dated 25th September, 2025 and to allow the petitioners to participate in the recruitment process in terms of the aforesaid notification.

3. The petitioners contend that they have qualified Teacher's Eligibility Test (*in short*, 'TET'), 2023. The requisite D.El.Ed. course of session 2023-2025 has also been completed. However, the results of the D.El.Ed. course for the session 2023-2025 has not been declared as yet. Due to non-publication of result of D.El.Ed. course for the session 2023-2025 the petitioners, who have qualified TET, 2023, are unable to participate in the ongoing recruitment process initiated *vide* notification dated 25th September, 2025. There is deliberate and intentional laches on the part of the Board in non-publication of the results of D.El.Ed. course which is affecting the right of the petitioners to participate in the ongoing recruitment process. Hence, this writ petition.
4. Upon hearing the learned Advocates for the respective parties following issues are fallen for consideration:
 - (i) Whether the petitioners who qualified in TET, 2023 are eligible to participate in the ongoing recruitment process?
 - (ii) Whether the petitioners who have completed D.El.Ed. course but results are yet to be

declared can be allowed to participate in the ongoing recruitment process?

(iii) Whether there is any deliberate and intentional laches on the part of WBBPE in non-publication of the results of D.El.Ed. course 2023-2025?

Issue No.1: Whether the petitioners who qualified in TET, 2023 are eligible to participate in the ongoing recruitment process?

5. Mr. Sudipta Dasgupta, learned Advocate appearing on behalf of the petitioners submit that the petitioners have qualified TET, 2023. They have also completed D.El.Ed. course for the session 2023-2025, but the results have not been declared. The delay in declaration of the results is causing grave injustice to the petitioners, who are otherwise eligible to participate in the ongoing recruitment process. The academic duration of D.El.Ed. course is of two years. The admission of the candidates have been made in June, 2023 and, therefore, by this time the Board ought to have declared the results thereby enabling the petitioners to participate in the ongoing recruitment process. He seeks for appropriate direction upon the respondent authorities so that the petitioners can participate in the ongoing recruitment process.

5.1. On the contrary, Mr. Subir Sanyal, learned Senior Advocate appearing for the West Bengal Board of Primary Education (*in short*, 'WBBPE') submits that the petitioners have appeared in the TET, 2023

examination as candidates pursuing D.El.Ed. course. However, such declaration by the candidates/petitioners was a misrepresentation inasmuch as the examination of TET, 2023 was notified on 13th September, 2023 and the approval of merit list for admission to the D.El.Ed. course of session 2023-2025 was notified on 8th November, 2023. Therefore, the petitioners could not have been pursuing candidates of D.El.Ed. course of 2023-2025 to appear in TET, 2023. He also indicates that at the time of conducting TET, 2023 examination, the certificates are not verified and on good faith and upon declaration by the candidates they are allowed to appear. The qualification of TET, 2023 is subject to subsequent scrutiny and verification by the Board. He informs the Court that though the petitioners have qualified in TET, 2023, however, no certificates have been issued.

5.2. Mr. Piush Chaturvedi, learned Senior Advocate appearing on behalf of the added respondent Nos.8 to 11 submits that as per the guidelines of NCTE clause 5(2), the pursuing candidates are allowed to participate in TET examination. All the petitioners have participated in TET, 2023 examination claiming themselves to be pursuing candidates of D.El.Ed. course. The advertisement for conducting TET, 2023 made on 13th September, 2023 and the notification issuing merit list of D.El.Ed. was made on 8th

November, 2023 by the Board. As such, the petitioners made incorrect statement in their applications claiming themselves to be pursuing candidates of D.El.Ed. courses. Such act of the petitioners is a misrepresentation and fraudulent on the face of it. Fraud and justice never dwell together. Fraud as is well known vitiates every solemn act. Therefore, the act of the petitioners in representing themselves to be pursuing candidates of D.El.Ed. course of 2023-25 is a deceitful act and they should not be allowed to take benefit of such act. In support of his contention he relies on the decision of the Hon'ble Supreme Court passed in ***State of Uttar Pradesh & Ors. versus Rabindra Kumar Sharma & Ors.*** reported in ***(2016) 4 SCC 791***. Furthermore, he submits that where a candidate has appeared in the examination on fraudulent declaration and upon verification it is found that claim is false, such an individual cannot be protected. Protection of claims of a usurper is an act of deviance to the constitutional scheme as well as statutory mandate. The principle that the Government is bound by its circulars is well settled but it cannot be applied to situation where there is misrepresentation and false claim detected upon verification and scrutiny. To buttress his contention, he relies on the decision of the Hon'ble Supreme Court passed in ***Chairman and Managing Director, Food Corporation of India & Ors. versus***

Jagdish Balaram Bahira and Others reported in ***(2017)8 SCC 670***. He seeks for dismissal of the writ petition.

5.3. After completion of arguments on behalf of the respective parties, leave was sought for by Mr. Dasgupta, learned Advocate for the petitioners to file supplementary affidavit annexing the documents showing admission of the petitioners to D.El.Ed. course prior to the notification for conducting of TET, 2023 examination. Upon leave by this Court, such supplementary affidavit was filed on behalf of the petitioners.

5.4. Mr. Dasgupta, learned Advocate for the petitioners relying on the documents annexed to the supplementary affidavit submits that all the acknowledgement receipts and money receipts would show that the petitioners have taken admission to D.El.Ed. course of 2023-2025 prior to the date of advertisement for conducting TET, 2023 i.e. 13th September, 2023.

5.5. Mr. Sanyal, learned Senior Advocate appearing for the WBBPE submits that the procedure for processing the application for D.El.Ed. course in clause 8 of notification No.176/WBBPE/ D.El.Ed./2023 of the Board dated 17th August, 2023 in clause 8 clearly stipulates that the filled in admission forms will have to be submitted to the listed institutes, selected by the applicants medium wise and thereafter the Board

will forward the approved merit lists to the respective institutes for admission. By notification dated 8th November, 2023 it was notified to all concerned that the merit lists of the candidates for admission in the Two-year D.El.Ed. course, session 2023-2025 were being forwarded through the institute log-in for use of the institutes along with necessary guidelines. The acknowledgement receipts and money receipts of the institutes, even if issued prior to date of advertisement of TET, 2023, receipts will have little consequence, since at that point the Board has not approved the merit list for admission to D.El.Ed.

5.6. Mr. Chaturvedi, learned Senior Advocate appearing for the added respondent Nos.8 to 11 relying on the decision of the Hon'ble Supreme Court passed in ***Priya Gupta versus State of Chhattisgarh & Ors.*** reported in ***(2012) 7 SCC 433*** submits that the prescribed and statutory guidelines are to be enforced mandatorily in its true spirit and substance and it is not advisable to keep some windows open to meet a particular situation of exception, as it may pose impediments to the smooth implementation of laws and defeat the very object of the scheme. The regulations of the Board have been prescribed upon serious consideration by all concerned and are to be applied *stricto sensu* and cannot be moulded to suit the convenience of some interested parties. The chronological events would show that on the date of

advertisement of TET, 2023 on 13th September, 2023 there did not occasion for the petitioners to take admission in any college since the merit lists of D.El.Ed. course of 2023-2025 was prepared and approved by the Board subsequently.

5.7. The petitioners contend that they have qualified the TET, 2023. There is no dispute to the fact that these petitioners have appeared in the TET, 2023 declaring themselves as pursuing candidates of D.El.Ed. course for the sessions 2023-2025. By notification No.177/WBBPE/D.El.Ed./2023 dated 17th August, 2023, online applications were invited from intending persons who are eligible in terms of NCTE norms for admission to two-year D.El.Ed. Course (Regular Mode) for the session 2023-2025. It is informed by the learned Advocates for the respective parties that the last date for filling up of application forms for admission to the D.El.Ed. course of 2023-2025 was extended from time to time till 8th October, 2023. The WBBPE by its notification No.176/WBBPE/D.El.Ed./2023 dated 17th August, 2023 laid down the procedure for processing the applications which is reproduced hereunder for convenience of discussion:

“8. Procedure for processing the applications:

- i. *The filled in admission forms will have to be submitted to the listed institutes, selected by the applicants medium wise.*
- ii. *Thereafter, the forms will automatically be transferred to the login of the institutes.*
- iii. *All the institutes shall have secret log-in and password, provided by the Board, for access online to the submitted forms.*
- iv. *The Heads of the Institutes will, then, verify and scrutinize the particulars submitted by the candidates.*

- v. *They will validate or invalidate the applications online through such scrutiny and verification.*
- vi. *Next, they will transfer online admission forms to the Board.*
- vii. *The Board will prepare the merit lists digitally, placing all the valid applications in order of merit.*
- viii. *Thereafter, the Board will forward the approved merit lists to the respective Institutes for admission.*
- ix. *The Institutes will intimate the selected candidates from the approved merit lists serially through WhatsApp/email and also inform them of subsequent steps to be notified by the Board.”*

5.8. By notification No.292/WBBPE/D.El.Ed./2023 dated 8th November, 2023, it was notified by the Board for all concerned that the merit lists of the candidates applied for admission in the Two Year D.El.Ed. course, Session 2023-2025 are being forwarded to the institute log-in for use of the institutes along with necessary guidelines. All the heads of the D.El.Ed. institutes are instructed to take appropriate measures for admission of the candidates in the session 2023-2025 in strict maintenance of the enclosed guidelines. The date of advertisement of TET, 2023 was made on 13th September, 2023. The petitioners claim that prior to such date i.e. 13th September, 2023 they took admission for D.El.Ed. course and the petitioners in their supplementary affidavit have also relied on the admission receipts and acknowledgement receipts. As per the notification No.177/WBBPE/D.El.Ed./2023 dated 17th August, 2023 the Board is to prepare and approve the merit lists digitally and forward the same to the dedicated log-in of the institute. The procedure for processing applications as laid down in notification dated 17th August, 2023, also shows that

upon filling up of application the Board would forward an approved merit list to the respective institute for admission. Such action/approval has been made by the Board on 8th November, 2023. Therefore, the merit lists being approved on 8th November, 2023, any admission in the institute in the earlier point of time would not be regular and said to be with the approval of the Board. As such, the declaration of the petitioners in their applications for appearing in TET, 2023 as pursuing candidates of D.El.Ed. course of 2023-2025 was incorrect and at the same time on the date of advertisement of TET, 2023 i.e. 13th September, 2023 the petitioners did not qualify to appear in TET, 2023. Therefore, even if the petitioners have succeeded in TET, 2023 it would have hardly in consequence since it is borne out of misrepresentation and incorrect statement in the application. This Court is in consonance with proposition of law as advanced on behalf of added respondent no.8 to 11 relying on *Rabindra Kumar Sharma (supra)*, *Jagdish Balaram Bahira (supra)* and *Priya Gupta (supra)*.

Issue No.2: Whether the petitioners who have completed D.El.Ed. course but results are yet to be declared can be allowed to participate in the ongoing recruitment process?

6. Mr. Dasgupta, learned Advocate for the petitioners submits that the petitioners have already completed their D.El.Ed. course and final examinations have

also been conducted by the Board. However, the results have not been declared. Due to non-publication of the results, the petitioners are unable to take part in the recruitment process. Relying on ***Soumen Pal & Ors. versus Shrabani Nayek & Ors.*** reported in ***2025 SCC OnLine 720***, he submits that since Rule 6(2) of West Bengal Primary School Teachers Recruitment Rules, 2016 (*hereinafter referred to as "Recruitment Rules, 2016"*) does not provide any cut-off date to obtain the qualification, the qualification on the last date appointed for receipt of application is to be considered and not the date of publication of advertisement. Therefore, if the Board publishes the results of D.El.Ed. course within the last date i.e. 9th December, 2025 it will definitely make the petitioners eligible to participate in the ongoing recruitment process.

6.1. Mr. Sanyal, learned Senior Advocate appearing for WBBPE submits that on conjoint reading of Rule 6(2) of the Recruitment Rules, 2016 (as amended) as well as recruitment notification dated 25th September, 2025, there cannot be any doubt that the candidates must possess two years D.El.Ed. course on the date of advertisement. Since the petitioners do not possess the qualification on the date of advertisement of recruitment they are ineligible to be taken into zone of consideration. Further, relying the decision of Hon'ble Supreme Court in passed in ***Tejprakash Pathak vs.***

Rajasthan High Court reported in **(2025)2 SCC 1**, he submits that the Rules of the game must not be changed in midway or after the game has been played. Once the recruitment process commences the rules cannot be changed thereafter. As on the date of advertisement the petitioners do not possess the required qualification, the procedure and eligibility of recruitment process cannot be changed or moulded by allowing the petitioners to participate in the recruitment process who till date are pursuing the course of D.El.Ed., since the final results are still not declared.

6.2. Mr. Chaturvedi, learned Senior Advocate appearing for the added respondent Nos.8 to 11 submits that the petitioners have not yet passed D.El.Ed. As per the notification, candidates who have passed D.El.Ed. on the date of advertisement can apply. Relying on the decision of Hon'ble Supreme Court in **Parimal Kumar & Ors. versus The State of Jharkhand & Ors.** reported in **(2025) 1 SCR 1953** he submits that the rule of the game cannot be moulded once the recruitment process is initiated.

6.3. In order to examine the issue under reference, it would be profitable to reproduce Rule 6(2) of the Recruitment Rules, 2016. This sub-rule was later amended by a notification dated 22.12.2020 in the following terms:

“(2) The candidate shall possess the minimum educational and training qualification as prescribed by the National Council for Teacher Education prevailing as on date of publication of recruitment notification.”

6.4. The aforesaid rule provides that the candidates shall possess the minimum educational and training qualification as prescribed by the National Council for Teacher Education prevailing as on date of publication of recruitment notification. In *Soumen Paul (supra)*, the Hon’ble Supreme Court has considered the provision and has observed that to ensure that the latest prescription of NCTE should be made applicable for any recruitment, the rule also provides that the qualifications prescribed by NCTE, *“prevailing as on the date of publication of recruitment notification,”* must be possessed by the candidate. It further observed that the intendment of Rule 6(2) of the Recruitment Rules, 2016 is only to declare that the qualifications as prescribed by NCTE and that are prevailing on the date of publication of the recruitment notification should be possessed by the candidate.

6.5. Clause 3 of recruitment of the advertisement dated 25th September, 2025 is quoted hereunder for convenience:

“(3) Qualifications requirement:

(a) The candidate must be a citizen of India.

(b) The candidate must have passed :

Higher Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education

OR

Higher Secondary (or its equivalent) with at least 45% marks and 2-year Diploma in Elementary Education

OR

Higher Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (B.El.Ed.)

OR

Higher Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Education (Special Education)

OR

Graduation and Two Year Diploma in Elementary Education

AND

Teacher Eligibility Test (TET) (conducted by the West Bengal Board of Primary Education adhering to the rules and principles set by NCTE)"

6.6. On conjoint reading of Rule 6(2) of Recruitment Rules, 2016 as well as clause 3(b) of the notification issued by the Board it would construe that the candidates should possess the requisite qualification on the date of publication of the advertisement. Moreover, it is pertinent to note that in *Soumen Paul (supra)*, the recruitment notification of the Board allowed the pursuing candidates of D.El.Ed. to take part in the recruitment process which is quite distinct from the present notification which in unambiguous terms in clause 3(b) of the advertisement clearly stipulates that the candidates who have passed should be allowed to take part in the recruitment process. Furthermore, this Court finds substance in submissions of Mr. Sanyal and Mr. Chaturvedi, learned Senior Advocates that the rule of the game cannot be changed as held by the Hon'ble Supreme Court in *Tej Prakash Pathak (supra)*. The Constitution Bench has also clarified that the recruitment process commences from the date of issuance of the advertisement and concludes with the

filling up of notified vacancies. The observation of

Hon'ble Supreme Court is reproduced hereunder:

"13. The process of recruitment begins with the issuance of advertisement and ends with the filling up of notified vacancies. It consists of various steps like inviting applications, scrutiny of applications, rejection of defective applications or elimination of ineligible candidates, conducting examinations, calling for interview or viva voce and preparation of list of successful candidates for appointment."

"42. We, therefore, answer the reference in the following terms -

(1) Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies;

(2) Eligibility criteria for being placed in the Select List, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;

(3) The decision in K. Manjusree (supra) lays down good law and is not in conflict with the decision in Subash Chander Marwaha (supra). Subash Chander Marwaha (supra) deals with the right to be appointed from the Select List whereas K. Manjusree (supra) deals with the right to be placed in the Select List. The two cases therefore deal with altogether different issues;

(4) Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non-discriminatory/non-arbitrary and has a rational nexus to the object sought to be achieved.

(5) Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the Rules are non-existent, or silent, administrative instructions may fill in the gaps;

(6) Placement in the select list gives no indefeasible right to appointment. The State or its instrumentality for bona fide reasons may choose not to fill up the vacancies. However, if vacancies exist, the State or its instrumentality cannot arbitrarily deny appointment to a person within the zone of consideration in the select list."

6.7. The position of law as per *Tej Prakash Pathak (supra)*

is, therefore, clear that the recruitment process commences from the issuance of the advertisement and that eligibility criteria as laid down therein

cannot be changed midway during the recruitment process unless the extant rules or the advertisement permit such a change after the issuance. In the event such a power to amend is reserved in the advertisement or the rules, it must be tested on the anvil of Article 14 and pass the test of non-arbitrariness.

6.8. The proposition in *Tej Prakash Pathak (supra)* has been followed in *Parimal Kumar (supra)* by Hon'ble Apex Court.

6.9. Therefore, a pursuing candidate of D.El.Ed. course whose results are awaited cannot be allowed to participate in the recruitment process which has already been initiated by notifications dated 25th September, 2025 read with notification dated 19th November, 2025.

Issue No.3: Whether there is any deliberate and intentional laches on the part of WBBPE in non-publication of the results of D.El.Ed. course 2023-2025?

7. Mr. Sanyal, learned Senior Advocate appearing for the Board submits that upon completion of admission of D.El.Ed. course of 2023-2025 in the month of November, 2023, the final examination was completed only on 15th November, 2025. There is no delay and/or laches on the part of the Board in non-publication of the results. Reasonable time is required for assessment of the candidates, who appeared in the examination of D.El.Ed. course, for publication of

results. In similar circumstances, this Court in earlier writ petitions have turned down such prayer. In support of his contention, he relies on the decision of this Court in ***Koyeli Chakraborty & Ors. versus State of West Bengal & Ors.*** and one other writ petition reported in ***2017 SCC OnLine Cal 356***.

7.1. The petitioners have taken admission in two years D.El.Ed. course for the session 2023-2025. It is not in dispute that after completion of the course, the petitioners have appeared in the final examination only on 15th November, 2025 conducted by the Board. There cannot be any quarrel that a reasonable time is required for assessment of the answersheet in order to publish the results, which in all prudence cannot be done hurriedly. Nothing has been placed on record that the Board has acted arbitrarily in order to debar the petitioners for taking part in the recruitment process by not publishing the results of D.El.Ed course.

7.2. In view of the above, taking into consideration the date of final examination of D.El.Ed., this Court is of the view that there are no such deliberate and intentional laches on the part of the Board in not publishing the results of D.El.Ed course. However, it is expected that the Board will publish the results of two years D.El.Ed. course of 2023-2025 as expeditiously as possible within a reasonable period of time.

8. In view of the above discussion, this writ petition being **WPA 23943 of 2025** falls short of merit and accordingly, is dismissed.
9. Interim order, if any, stands vacated.
10. All connected applications, if any, stand disposed of.
11. There shall be no order as to costs.
12. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
13. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)