

S/L 46
15.07.2025
Court. No. 19
Sourav

WPA 23430 of 2012

**Sajal Mondal
Vs.
The State of West Bengal & Ors.**

*Mr. Prantick Ghosh
Mr. Prasad Bhattacharyya*
...for the petitioner.

*Mr. Biswabrata Basu Mallick
Mr. Biman Halder
Mr. Amman Arif Ansari*
...for D.P.S.C. (Hooghly).

*Mr. Suman Sengupta, Sr. Govt. Adv.
Mr. Sanatan Panja*
...for the State.

1. The parties to the instant writ petition are represented by their respective learned advocates.
2. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities for considering the name of the present writ petitioner for recruitment to the post of Assistant Teacher under the Hooghly Primary School Council along with other ancillary reliefs.
3. In course of his submission, at the very outset Mr. Ghosh, learned advocate appearing on behalf of the writ petitioner in his usual fairness submits before this Court that for the present the writ petitioner is placing the prayer (a) of the instant writ petition.
4. In course of his argument, Mr. Ghosh took me to Page No. 38 of the instant writ petition, being a copy of the memo dated 19.01.2007 as issued by the Secretary,

Hooghly District Primary School Council i.e., the Secretary of the respondent no. 4 herein whereby and whereunder the writ petitioner was directed to submit some documents since the name of the writ petitioner was sponsored by the Employment Exchange for the post of Assistant Teacher under the said Council.

5. It is further submitted that in compliance of the said memo dated 19.01.2007, the writ petitioner was directed to appear for a written examination on 20.12.2009 at the specified venue where the writ petitioner appeared in the written test.
6. It is further submitted by Mr. Ghosh that at the relevant time, the recruitment for the post of Assistant Teacher under the District Primary School Council is regulated by West Bengal Primary School Recruitment Rules, 2002 (hereinafter referred to as 'the said Rules of 2002' in short) which was subsequently amended in the year 2005.
7. Drawing attention to Page No. 27 of the supplementary affidavit, it is submitted by Mr. Ghosh that pursuant to such amendment, the School Education Department (Primary Branch of Government of West Bengal) had issued a circular dated 30.03.2010 clearly specifying that pursuant to the order dated 23.03.2009 as passed by a co-ordinate Bench of this Court in WP 15800 (W) of 2009, the recruitment of primary teachers in the vacant post arising from 2004-05 to 2009-10, the process of recruitment would be bifurcated in the following manner:

- a) The candidates applied through the Employment Exchange against the vacant post in 2004-05, 2005-06 and 2006-07 would be considered pursuant to the prevalent Recruitment Rules, i.e., the said Rules of 2002.
 - b) In respect of the applications against the post in 2007-08, 2008-09 and 2009-10, the said council shall consider those applications as per amended Recruitment Rules.
8. At this juncture, Mr. Ghosh draws attention of this Court to the copy of the advertisement dated 30.08.2009 as has been annexed at page no. 31 of the supplementary affidavit. It is submitted that undisputedly, the writ petitioner is a physically handicapped person and in such advertisement, the vacancy under the said category was declared to the extent of 135.
9. It is submitted by Mr. Ghosh that in such advertisement, the said circular dated 30.03.2010 was not followed inasmuch as the said council has not bifurcated the vacancies as per the years as mentioned in the said circular. It is further submitted by Mr. Ghosh that in the event, the vacancies as have been declared in the said advertisement were bifurcated in terms of the circular dated 30.03.2010, the writ petitioner could have come under the consideration zone.

10. It is thus submitted by Mr. Ghosh that in view of such factual scenario, the writ petitioner is entitled to the relief as claimed for in the instant writ petitioner.
11. Such contention is, however, opposed by Mr. Basu Mallick, learned advocate appearing on behalf of the said Council as well as Mr. Panja, learned advocate appearing on behalf of the State.
12. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this Court that knowing fully well the exact number of vacancies as well as the rules governing the said recruitment process, the writ petitioner participated in the said recruitment examination by appearing in the written examination on 20.12.2009.
13. In considered view of this Court, there was every scope on the part of the writ petitioner to challenge the said notification on the ground of alleged violation of the said circular dated 30.03.2010. Admittedly, the writ petitioner prior to appearing in the said recruitment examination did not challenge the said recruitment advertisement and/or notification and by participating in the said recruitment process, this Court is of considered view that the writ petitioner has accepted the rules and regulation regarding the said recruitment process including declared vacancies.
14. This Court must not be oblivious of the fact that with the passage of time, several third party's interests have been created since the recruitment process has already

been completed long back which this Court does not want to disturb by exercising plenary jurisdiction of this Court which is highly prerogative in nature.

15. With the aforementioned observations, the instant writ petition being **WPA 23430 of 2012** is dismissed.
16. There shall be, however, no order as to costs.
17. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)