

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

APPELLATE SIDE

Present:

The Hon'ble Justice Tapabrata Chakraborty

&

The Hon'ble Justice Partha Sarathi Chatterjee

MAT 2101 of 2025

+

IA No. CAN 1 of 2025

Golam Morshed Mondal & ors.

Versus

The State of West Bengal & Ors.

For the Appellants

*: Mr. Ekramul Bari,
Mr. Sk. Imtiaz Uddin.*

For the State

*: Mr. Swapan Kr. Datta, Ld. G.P.
Mr. Rajat Dutta,
Mr. Tapas Kumar Das.*

For the Board

*: Mr. Subir Sanyal, Sr. Adv.,
Mr. Dwarika Nath Mukherjee,
Mr. Ratul Biswas,
Mr. Kaushik Chowdhury.*

Hearing is concluded on

: 8th December, 2025.

Judgment On

: 8th December, 2025

Tapabrata Chakraborty, J.

1. Affidavit-of-service, as filed, be kept on record.

2. The present appeal has been preferred challenging an order dated 25.11.2025 passed in the writ petition being WPA 26810 of 2025.
3. The said writ petition was preferred primarily praying for issuance of necessary direction upon the respondent authorities *‘to allow your petitioners to participate in the ensuing recruitment process initiated vide recruitment notifications dated 25.09.2025 and 19.11. 2025 issued by the West Bengal Board of Primary Education’*(hereinafter referred to as the said Board). By the order impugned, the learned single Judge refused to exercise discretion in favour of the writ petitioners/appellants herein and dismissed the same.
4. Placing reliance upon a notification dated 11.02.2011 issued by the Member Secretary, National Council for Teacher Education (hereinafter referred to as the NCTE), Mr. Bari, learned advocate appearing for the appellants submits that the appropriate government is under an obligation to conduct Teacher Eligibility Test (hereinafter referred to as TET) *‘at least once every year’*. Prior to the TET in which the appellants participated, the last TET examination was held in 2017. In view thereof, the respondents have miserably failed to discharge their obligation under the said guidelines.

5. He argues that the appellants are about to cross the minimum age criterion specified for unreserved and reserved category candidates and in the event they are denied participation in the present recruitment process, they would be left with no opportunity to be ever appointed as Assistant Teachers in primary schools though they have emerged to be successful in the TET examination. Such argument, as urged, was glossed over by the learned single Judge and no finding was returned on the same.

6. He further submits that in similar facts and circumstances earlier in a writ petition being WPA 24564 of 2022, a learned single Judge, directed the Board to allow the writ petitioners therein to participate in the recruitment process which was going to be initiated on 27.12.2022 upon observing, *inter alia*, that *'nobody is bothered about the persons who are after filling up the form for TET 2017 (test taken in 2021) crossed the maximum age limit after qualifying in TET 2017. The candidates who qualified in TET 2017 (held in 2021) but crossed the age bar cannot be made subject of a cruel comedy'*. The said order was not appealed against and the Board accepted the same. In view thereof, the Board cannot take a different stand in the present case. Having not preferred any appeal against the said order, the Board cannot challenge its correctness in

the case of the appellants herein. Reliance has been placed reliance upon the judgments delivered in the cases of *Sant Lal Gupta &ors. Vs. Modern Cooperative Group Housing Society Limited & ors.*, reported in (2010) 13 SCC 336 and *Union of India &ors. Vs. Kaumudini Narayan Dalal&anr.*, reported in (2001) 10 SCC 231.

7. Mr. Bari further contends that prior to the present recruitment process of the year 2025, the previous recruitment process was conducted by the Board three years earlier i.e. in 2022. For such delay on the part of the Board to hold the recruitment process, the appellants cannot be made to suffer.
8. Mr. Sanyal, learned senior advocate appearing for the Board, however, denies and disputes such contention of Mr. Bari and submits that a candidate upon qualifying in the TET examination would not earn any right for recruitment/appointment. Such condition has been specifically incorporated in the TET certificate and also in the recruitment notification dated 25.09.2025. It is not a case that upon qualifying in TET, the successful candidates, irrespective of their age, should be permitted to participate in the following recruitment process. Any such direction issued would have the effect of opening a floodgate.

9. He submits that the order of the learned single Judge in the writ petition being WPA 24564 of 2022, upon which reliance has been placed by Mr. Bari, is contrary to an order passed in a writ petition being WPA 2273 of 2023, dealing with an identical issue. The direction contained in the order of the learned single Judge passed in the earlier writ petition being WPA 24564 of 2022 has rightly not been construed to be a binding precedent *moreso* when in the said writ petition there was no challenge against the rules pertaining to the present recruitment process, particularly, Rule 6 which specifically provides the minimum age limit to be 18 years and the maximum age limit to be 40 years. Reliance has been placed upon a judgment delivered in the case of *Hirandra Kumar Vs. High Court of Judicature at Allahabad & anr.*, reported in (2020) 17 SCC 401.

10. We have heard the learned advocates appearing for the respective parties and considered the materials on record.

11. Indisputably, the TET examination of the year 2022 was held on 11.12.2022 and the result was published immediately thereafter on 10.02.2023. Thereafter, the recruitment notification was issued on 25.09.2025. Rule 6 of the Recruitment Rules categorically provides that the age requirement would be '*minimum Eighteen (18) years and maximum Forty (40) years as on the 1st day of January,*

2025'.Almost all the appellants herein have crossed the age limit specified under Rule 6 and the said rule had also not been challenged by the appellants in the writ petition.

12. The directions contained in the earlier writ petition being WPA 24564 of 2022 cannot override the prevailing rules which govern the recruitment process nor do they create an enforceable right in any candidate for selection or to assert a right to age relaxation in violation of the rules. The order in the writ petition being WPA 24564 of 2022 was passed in the peculiar facts and circumstances of the case in which the recruitment process was initiated in the year 2020 and the writ petitioners therein were being denied participation as the TET examination of the year 2017 was held after four years on 31.01.2021. The said order was thus clearly distinguishable and not applicable to the facts of the present case. There is also no statutory mandate upon the Board to conduct a recruitment process every year. Initiation of recruitment process is dependent upon various factors including the availability of vacancies.
13. In the said conspectus and as there was no challenge against Rule 6 of the recruitment rules, the learned single Judge rightly refused to exercise discretion in favour of the appellants and we do not find any infirmity in the said order warranting interference in the present appeal.

14. Accordingly, the appeal and the connected application are dismissed.
15. There shall, however, be no order as to costs.
16. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)