

19.12.2025
Sl. No.5
Ct. No.14
ss

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

WPA No. 28172 of 2025

**Sujoy Deoghuria & Ors.
Versus
The State of West Bengal & Ors.**

Mr. Sudipta Dasgupta,
Ms. Suryatapa Das,
Ms. Sinjini Chakrabarti

...for the Petitioners.

Mr. Ratul Biswas,
Mr. Kaushik Chowdhury

...for the WBBPE.

Ms. Asha G. Gutgutia

...for the NCTE.

Mr. Vivekananda Bose
Ms. Priyamvada Singh

... for the State

1. Affidavit of service filed on behalf of the petitioners is taken on record.
2. By the present writ petition, the petitioners seek for publication of the final results of Diploma in Elementary Education (*in short, 'D.El.Ed.'*) for the session 2023-2025 prior to the last date of the application of recruitment Notification dated 25th September, 2025 and also directing the respondent authorities to allow the petitioners to participate in the ongoing selection process in connection with the said recruitment notification.
3. All the petitioners in the present writ petition have qualified in TET 2014.

4. The petitioners herein contend that all of them have completed the D.El.Ed course for the session 2023-2025 which is required for the ongoing recruitment process. However, since the results of the D.El.Ed course have not been declared as yet, they are unable to participate in the recruitment process initiated vide Notification dated 25th September, 2025 read with Notification dated 19th November, 2025. Hence this writ petition.
5. Mr. Sudipta Dasgupta, learned advocate appearing for the petitioners, at the outset placing reliance on the Notification issued by the N.C.T.E. dated 9th June, 2021, submits that once a candidate qualifies the TET, it is valid for life, until and unless, it is revoked and/or cancelled by a competent authority. The petitioners, who have qualified in TET 2014 as untrained candidates, in order to make them sufficiently trained, have taken admission in D.El.Ed courses as required by the subsequent notification of the N.C.T.E. Due to non-publication of the said results and arbitrary withholding of the same by the Board, the rights of the petitioners to at least participate in the recruitment process has been affected. He indicates that the decision of the Hon'ble Supreme Court in the case of ***Devesh Sharma versus. Union of India*** reported in ***(2023) 18 SCC 339*** does not cancel the TET certificates or the TET qualification granted to the candidates. The notification of the N.C.T.E. dated 28th June, 2018 allowed the Graduates with at least 50% marks with Bachelor of Education

(B.Ed.) Degree to apply for appointment to the post of Assistant Teacher of primary school. Thus, once the petitioners have qualified in the TET examination conducted by the Board, the same cannot be revoked and cancelled or arbitrarily withdrawn. The Board has not taken any steps for revocation and/or cancellation and, therefore, is debarred from challenging its own action. Thus, the qualification and certificates of TET 2014 of the petitioners are valid till date. The petitioners herein seek for publication of the final results of the D.El.Ed course for the session 2023-2025, so that they get the opportunity to take part in the ongoing recruitment process. As per the Norms and Standards of D.El.Ed, the duration of the D.El.Ed. Programme shall be of two academic years. The release notice dated 30th June, 2025 goes to show that the academic year has ended on 30th June, 2025. The Board ought to have published the results within the academic year. Hence, as per the duration as stipulated in the Norms and Standards the Board is statutorily bound to publish the results. In the light of his aforesaid submissions, he prays for specific direction upon the authority concerned to publish the results of D.El.Ed course 2023-2025 and also to allow the petitioners to participate in the ongoing recruitment process.

6. On the contrary, Mr. Ratul Biswas, learned advocate appearing for the West Bengal Board of Primary Education (*in short*, 'WBBPE') submits that the

petitioners are untrained candidates. The petitioners have not passed the D.El.Ed course as yet. As per the notification/advertisement for recruitment, the candidates who have passed the course on the date of advertisement are eligible. Therefore, the petitioners are lacking on such score. He informs the Court that the final examination of D.El.Ed has been completed only on 15th November, 2025 and will be published within a reasonable time frame. He seeks for dismissal of the writ petition.

7. Upon hearing learned Advocates for the respective parties, following issues have fallen for consideration:
 - i) 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?
 - ii) Whether the petitioners who have qualified in TET 2014 are eligible to participate in the recruitment process initiated vide Notification being Memo No.2141/WBBPE/2025/59R-09/2024 dated 25th September, 2025 read with Notification being Memo No.2367/ WBBPE/ 2025/59R-09/2024 dated 19th November, 2025?
 - 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 have completed D.El.Ed course but results are yet to be declared can be allowed to participate in the ongoing recruitment process?

8. 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. vs. Shrabani Nayek & Ors. (In Re: SLP (C) No.12660 of 2023)*, 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. Therefore, if the Board publishes the results of D.El.Ed. course within a specified period extending the last date, it will definitely make the petitioners eligible to participate in the ongoing recruitment process.

8.1. Mr. Biswas, learned 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. He informs the Court that final examination has been conducted only on 15th November, 2025. The Board requires reasonable time to publish the 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***. 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.

8.2. 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.”

8.3. 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.

8.4. 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)"

8.5. 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. Biswas, learned Advocate 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."

8.6. 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.

8.7. 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.2: Whether the petitioners who have qualified in TET 2014 are eligible to participate in the recruitment process initiated vide Notification being Memo No.2141/WBBPE/2025/59R-09/2024 dated 25th September, 2025 read with Notification being Memo No.2367/WBBPE/2025/59R-09/2024 dated 19th November, 2025?

9. Admittedly, the petitioners have not passed D.El.Ed. course as yet. The requirement under clause 3 of the recruitment notification makes it clear that the petitioners should have passed the course on the date of publication of advertisement.

9.1. It is not in dispute that the petitioners are untrained candidates and hence they do not meet the requirement of the recruitment process.

9.2. In view of the above discussions and since none of the petitioners have passed D.El.Ed course on the date of advertisement for recruitment they are ineligible to participate in ongoing recruitment process.

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?

10. 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.
- 10.1. 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.
11. With the aforesaid observations, the writ petition being **WPA 28172 of 2025** stands dismissed.
12. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
13. Interim order, if any, stands vacated.
14. All connected applications, if any, stand disposed of.
15. There shall be no order as to costs.

16. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
17. 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.)