

27.01.2026  
Item No.01  
Court No.11  
KCP

**FMA 256 of 2025  
with  
IA No. CAN 1 of 2024**

**West Bengal Board of Primary  
Education & Ors.  
- Versus -  
Arun Kumar Das & Ors.**

Mr. Subir Sanyal, Sr. Adv.  
Mr. Ratul Biswas  
Mr. Kaushik Chowdhury  
...for the appellants

Mr. Firdous Samim  
Ms. Gopa Biswas  
Mr. Rajosik Dutta  
Mr. Imzamamul Islam  
Mr. Naman Shah  
...for the writ petitioner/  
respondent

The present appeal has been preferred by the West Bengal Board of Primary Education (hereinafter referred to as the Board) and its functionaries challenging an order dated 3<sup>rd</sup> January, 2024 passed by the learned single Judge in the writ petition being WPA 19134 of 2023. The said writ petition was preferred by the writ petitioner, namely, Arun Kumar Das (in short, Arun), primarily praying for the following relief:

*‘A Writ of and/or in the nature of Mandamus commanding the respondent authorities, each one of them, their servants, agents and/or persons working*

*under them and/or under their directions to treat and place the petitioner under OBC-B category with respect to TET-2022 and declare him as TET, 2022 qualified.'*

Upon contested hearing the said writ petition was disposed of directing the Board to treat Arun as a candidate of OBC-B and to give him all advantages of a reserved category candidate.

Shorn of unnecessary details, the facts are that Arun applied for OBC-B certificate on 5<sup>th</sup> August, 2022. On 29<sup>th</sup> September, 2022 thereafter a notification was issued by the Board inviting applications from eligible candidates for the Teacher Eligibility Test (in short, TET) for the year 2022. In terms of the said notification, Arun applied as a general category candidate. Thereafter, the TET examination was held on 11<sup>th</sup> December, 2022 and the result was declared on 10<sup>th</sup> February, 2023. In the midst thereof, Arun was issued the OBC-B category certificate on 9<sup>th</sup> February, 2022.

Mr. Sanyal, learned senior advocate appearing for the appellants submits that the Board is an examining authority and it has to proceed in strict consonance with the notification issued for conducting such examination. Arun duly participated in TET, 2022 as a general category candidate but failed to come within the zone of consideration and as

such result was not palatable, he preferred the writ petition claiming consideration as OBC-B category candidate on the basis of the certificate obtained on 9<sup>th</sup> February, 2023.

He argues that having participated as a general category candidate in TET, he cannot seek the advantages of a reserved category candidate on the ground that he was successful in getting the required certificate only at a later stage. The issue urged in the writ petition is no longer *res integra* as it has already been decided by two Co-ordinate Benches of this Court in the cases of *The Secretary, West Bengal Board of Primary Education & Anr. –vs– Soma Saha Biswas & Ors.* and *Hafizur Rahaman –vs– The State of West Bengal & Ors.*, placing reliance upon the judgment delivered by the Hon'ble Supreme Court in the case of *J & K Public Service Commission –vs– Israr Ahmad and Others*, reported in (2005) 12 SCC 498.

*Per contra*, Mr. Samim, learned advocate appearing for Arun submits that the State authorities were under an obligation to dispose of an application submitted seeking a caste certificate within four weeks from the date of such submission, as would be explicit from the notification dated 16<sup>th</sup> November, 2013. For the delay on the part of the State authorities to issue the caste certificate, Arun cannot be made to suffer.

He argues that it is not a case that Arun sat tight over the matter and chose not to apply for OBC-B certificate earlier since it would be explicit from the list of Backward Classes in West Bengal, as annexed at page 31 of the stay application, that the caste Bairagi/Baishnab was incorporated as a reserved caste *vide* notification being 2022-BCW/MR-03/2021 dated 11<sup>th</sup> July, 2022.

He contends that the TET examination is required to be conducted by a suitable professional body designated by the appropriate government for the purpose, as would be explicit from the guidelines for conducting TET. In view thereof, the Board as the designated authority to conduct the said examination could not have ignored the fact that the State had delayed consideration of Arun's application for the OBC-B certificate moreso when the Board was made aware about the said facts by a representation dated 16<sup>th</sup> February, 2023. In the said conspectus, the learned single Judge rightly directed the Board and its functionaries to treat Arun as OBC-B category candidate and to grant him all advantages of a reserved category candidate.

He further argues that the judgments delivered by the Co-ordinate Benches of this Court in the cases of *The Secretary, West Bengal Board of Primary Education & Anr. (supra)* and *Hafizur Rahaman (supra)*

did not take into consideration the judgment delivered by the Hon'ble Supreme Court in the case of *Ram Kumar Gijroya -vs- Delhi Subordinate Services Selection Board and Another*, reported in (2016) 4 SCC 754 which was delivered subsequent to the judgment of the Hon'ble Supreme Court in the case of *J & K Public Service Commission (supra)*.

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

Indisputably, Arun applied for participation in TET, 2022 as a general category candidate. Acting on the basis of such application, Board evaluated Arun's performance and he could not come within the zone of consideration as a general category candidate. Having applied as a general category candidate, Arun cannot turn back and claim the benefits of OBC-B certificate applied for prior to the examination and obtained after the examination was over.

In paragraph 2 of the judgment delivered in the case of *Ram Kumar Gijroya (supra)* it has been stated as follows:

*“The important question of law to be decided in these appeals is whether a candidate who appears in an examination under the OBC category and submits the certificate after the last date mentioned in the*

*advertisement is eligible for selection to the post under the OBC category or not ?*

Arun did not apply and did not appear in TET, 2022 as a candidate under the OBC-B category and that as such, in our opinion, the said judgment is distinguishable on facts and is not applicable to the present case.

For the reasons discussed above, the order dated 3<sup>rd</sup> January, 2024 impugned in the present appeal, in our opinion, is not sustainable in law and the same is set aside.

The appeal being FMA 256 of 2025 and the connected application being CAN 1 of 2024 are, accordingly, disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

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