

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

Present:

The Hon'ble Justice Rai Chattopadhyay

WPA 6462 of 2025

**Cathedral Mission High School & Anr.
Vs.
The State of West Bengal & Ors.**

For the Petitioner : Mr. Kamalesh Bhattacharyya
: Mr. Biswarup Biswas
: Mr. Aninda Bhattacharyya

For the State : Mr. Swapan Kr. Datta, Id. AGP
: Mr. Dipankar Dasgupta

For the respondent nos. 4-6 : Mr. Sunit Kr. Roy

Judgment reserved : **27.02.2026**

Judgment on : **18.03.2026**

Rai Chattopadhyay, J. :-

1. The solitary legal question involved in this writ petition is whether the petitioners, that is, a linguistic minority school governed under Article 30 of the Constitution of India and regulated vide the Notification No. 79-ES/S/10R-14/2013 dated February 03, 2016 (in short 'No. 79'), has duly complied with the procedure as provided thereunder in the process of recruitment, so that the panel prepared may be approved by the respondent No. 3/the District Inspector of Schools, Secondary Education, Kolkata. The writ petitioners being aggrieved with the decision and order of refusal by the said respondent No. 3, to approve the said panel, have filed the instant writ petition for appropriate relief. The

impugned order is dated September 15, 2023 of the respondent No. 3/District Inspector of Schools, Secondary Education, Kolkata which is under challenge in the instant writ petition.

2. The following grounds has been enumerated in the impugned order of D.I. dated September 15, 2023:-

"1) The mandate of Rule 1 of Annexure I of notification no. 79-ES/S/10R-14/2013 dated 03/02/2016 is that the school authority shall publish advertisement with the "Name of the School with complete postal address along with PIN code and phone number." The school authority did not disclose the phone no/mobile no of the school/HM/Secretary in the advertisement. Therefore, the school authority violated the Rule 1 of Annexure I of notification no, 79-ES/S/1QR-14/2013 dated 03/02/2016.

2) In terms of clause 5(C) of Annexure I of notification no. 79-ES/S/10R-14/2013 dated 03/02/2016, the school authority shall publish advertisement declaring the post either in normal section or Higher Secondary Section and in case of Normal Section, the school authority shall also declare the "Group" of the post. The school authority didnot disclose the posts either in normal section or Higher Secondary Section and violated the mandate of clause 5(C) of Annexure I of notification no 79-ES/S/10R-14/2013 dated 03/02/2016.

3) In terms of rules 6 Annexure I of notification no-79-ES/S dated 03/02/2016 the school authority shall publish advertisement with the minimum academic qualification, professional qualification, age limit, teaching experience and citizenship, in fact, minimum qualification for any post in Higher Secondary Section as per N.C.T.E. Norms as well as SSC,WB's Norms it should be 50% marks in the respective subject with B.Ed and in case of any post of Normal Section, it should be 50% marks in Graduation/Post Graduation with B.Ed.

The School authority did not disclose the minimum qualification of any of the subjects in the advertisement and violated the mandate of Rule 6 of Annexure 1 of notification no, 79-ES/S/10R-14/2013 dated 03/02/2016.

4) Moreover, in the recruitment procedure prepared by the Founder Body as per Notification No-79-ES/S/10R-14/2013 dated 03/02/2016, the Founder Body directed the School Managing Committee to follow that, the higher marks either in Graduation or in Post Graduation shall be considered. This is the law related to awarding of marks in academic qualification for the post of Normal Section. The founder Body directed the school managing committee that the minimum qualification shall be 50% marks in Post Graduate level in the

relevant subject with B.Ed for the post of Higher Secondary Section.

The managing committee has therefore violated the mandate of the Founder Body in both the cases meant for qualification for Normal Section and Higher Secondary Section.

5) It is pertinent to mention here that the School Authority published advertisement in Bengali "Dainik Statesman" and English edition of Statesman on 25/06/2022 for the post of M.Sc (Botany) B.Ed along with two other teaching subjects i.e. M.Sc (Chemistry) B.Ed and BA Pass (History 300 marks) B.Ed. But in no objection in respect of appointment of Teaching and Non-Teaching staff from this office vide memo no-745/M dated 25/03/2022, it is found that the post is meant for Biological Science in H.S. Section. The school authority has, therefore, violated the contents of No objection memo, as they have asked only M.Sc (Botany) in place of Biological Science."

3. Bereft of any unnecessary facts, the background of the present writ petition may be stated that, the petitioner No. 1/School being a linguistic minority institution is protected under provisions of Article 30 of the Constitution of India. The same is to be self-regulated in terms of procedure as prescribed in Notification No. 79, in the matter of recruitment of teachers in the school.
4. Relevant in this case is the recruitment and appointment of the three teachers namely Shri Arindam Das, Assistant Teacher of History, Ms. Kabita Mukherjee, Assistant Teacher of Botany and Shri Tanmay Halder, Assistant Teacher of Chemistry, all of whom have been appointed vide the letter dated March 14, 2023. According to the petitioner, a recruitment process was initiated pursuant to the resolution of the Managing Committee dated July 29, 2021 and after having duly informed the vacancy position to the DI vide letter dated July 25, 2021. The petitioners have stated that, the DI has given 'No Objection' in his letter dated March 25, 2022. An advertisement was published thereafter in a well-circulated vernacular newspaper inviting applications from the eligible candidates. According to the petitioners, the selection

process was held strictly in compliance with the provisions of Notification No. 79 and the panel was prepared as per merits. The said incumbents have been issued appointment letters as above as per their places in merit list.

5. By letter dated April 11, 2023, the school authority has sent the panel with other documents as required for approval of appointment of the selected teachers, named above. However, after repeated queries and satisfaction thereof by the school authorities, finally, the respondent DI has issued the impugned order dated September 15, 2023 citing its reasons as mentioned above, thereby refusing to approve the panel.
6. Being aggrieved, the petitioners have filed the instant writ petition to pray for the relief that the DI be directed to forthwith grant approval of appointment to the three Assistant Teachers as above; that, the impugned order dated September 15, 2023 be set aside as bad in law.
7. Mr. Kamallesh Bhattacharyya has represented the writ petitioner. He has submitted that the grounds as above, cited by the respondent/DI to refuse grant of approval to the panel are not maintainable in the eye of law. He has submitted further that, neither there is any illegality in the vacancy notification published, so far as due compliance with the notification No. 79 is concerned, nor the criteria required for eligibility as mentioned therein stands in contravention of the settled Rule in any manner whatsoever. In this regard, Mr. Bhattacharyya, learned counsel for the petitioners have categorically dealt with the provisions under Notification No. 79 as well as the West Bengal School Service Commission (Selection for appointment to the posts of teachers for Class IX-X in Secondary and Higher Secondary Schools) Rules, 2016 (vide Notification No. 1105-SE/S/1S-26/2010 (Part III) dated September 20, 2016 – referred herein after as “No.1105). It has been

mentioned that, Appendix of the Rules being only illustrative in nature is not mandatory to be complied with similarly as it is in case of the principal provisions provided under the said Rules. Mr. Bhattacharyya has referred to a judgment of the Supreme Court in ***Ashish Kumar Vs. State of Uttar Pradesh and Others*** reported in **2018 3 SCC 55** in which the Court has held that, '*any part of the advertisement which is contrary to the statutory Rules has to give way to the statutory prescription.*'

8. A Rajasthan High Court judgment reported in 1998 SCC OnLine Raj 176 (***Diwakar Srimali and Others Vs. Life Insurance Corporation of India and Others***) has also been relied on by the petitioners in support of their contentions that, '*Appendix is not part of the Rules. The Appendix is part of the instructions of 1987*'.
9. With reference to Notification No. 1105, he has mentioned that the essential educational as well as professional qualifications required for the prospective candidates as has been mentioned in the vacancy notification, is in pursuance with the said notification No. 1105, so far as teachers for Class IX-X are concerned. Similarly, for the teachers for Class XI-XII, the prescribed educational and professional qualifications as mentioned in the West Bengal School Service Commission (Selection for appointment to the posts of teachers for Classes XI and XII in Higher Secondary Schools (Rules, 2016) (vide Notification No. 1106-SE/S/1S-26/2010 (Part III dated September 20, 2016 – hereinafter referred to as 'No-1106') have been duly followed.
10. A decision of Division Bench of this Court dated **December 11, 2024 in WP.ST 53 of 2024 (Mohan Kumar Halder versus The State of West Bengal & Ors.)** has also been referred to in which the Court has held that, the real purpose of the notes appended to the Rules is that when Rules are silent the notes will fill up the gaps; that the notes are part of the Rules but they are for the

guidance of the authorities; that they are not inconsistent with the Rules but are intended to fill up gaps where the Rules are silent.

- 11.** Accordingly, Mr. Bhattacharyya has submitted that the ground taken by the respondent/DI that in the advertisement '*phone number*' of the institution has not been notified therein as per 'Annexure-I' of the Notification No. 79 and thereby there has been violation of the Rules prescribed thereunder, cannot be sustained. He mentions that, the main text of the Notification No. 79 has not mentioned about the '*phone number*' to be mandatorily provided and 'Annexure-I' appended to the said Rule is only for clarification or instruction purpose. It has been further mentioned that any shortfall in the vacancy notification regarding mention of the minimum required qualification as alleged, is only misconceived in so far as the required qualification in terms of the notifications No. 1105 and 1106 as mentioned above duly has found place in the vacancy notification published by the petitioners.
- 12.** So far as the ground of refusal of the prayer for approval of panel regarding contradiction of the process undertaken by the School Managing Committee with that recommended by the founder body of the school has been strongly criticized on behalf of the petitioners that, statutory prescription (in terms of notifications No. 1105, 1106 and 79) are paramount so far as conduct of recruitment process by the said minority institution is concerned.
- 13.** Lastly, the '*Consolidated list of different subjects for XI-XII*' published by the West Bengal Central School Service Commission has been relied upon to fortify the arguments made that, the finding of the DI in the impugned order about violation of 'No Objection Memo' issued by the same, by the school authority in declaring vacancy in the subject of Biological Sciences in higher secondary section is erroneous and bad in law. With reference to the said '*Consolidated list*' it is submitted that, as per the same,

'Biological Sciences' duly incorporate the subject 'Botany', along with other subjects specified therein. Therefore, the decision of the respondent/DI that condition of 'No Objection Memo' earlier issued by it in favour of the petitioners has been infringed in the advertisement published, is only erroneous and unsustainable. Mr. Bhattacharyya, learned counsel for the petitioners has submitted that, as a matter of fact, as per Clause 10 of the Notification No. 79, the institution is not required to take any prior permission from the respondent/DI to initiate a process of recruitment by issuance of an advertisement. Hence, the no objection granted by the said respondent vide letter dated March 25, 2022 becomes absolutely inconsequential and can be considered for no reason whatsoever.

- 14.** Mr. Bhattacharyya, learned counsel for the petitioners has sought for setting aside of the impugned order dated September 15, 2023 that being unfounded, erroneous, arbitrary and illegal.
- 15.** The respondent has amply relied on the reasons cited by the DI in the said impugned order dated September 15, 2023, as mentioned above. According to Mr. Dutta, learned AGP appearing for the respondent/State there has been gross violation of the Rules governing and regulating recruitment of teachers in a minority institution, precisely that enumerated in Notification No. 79. Mr. Dutta, learned AGP has mentioned about Rule 4 (1) of the Notification No. 79 which has provided for the information be published in the advertisement as contained in 'Annexure-I' of the said notification. He says that, this renders the 'Annexure' appended to the said Rule as for compulsory compliance and not only for explanation or instruction purpose, as mentioned on behalf of the petitioners. Therefore, according to the respondent, absence of mention phone number of the institution in the advertisement, stands in stern violation of the Rules itself thereby

rendering the vacancy notification as illegal. Rule 15 of the Notification No. 79 has been mentioned to submit that the State Government cannot take any financial responsibility for the illegally appointed teachers.

16. The respondent has mentioned the judgment of the Supreme Court in ***J. Jayalalithaa and Others Vs. State of Karnata and Others*** reported in **2014 2 SCC 401** to buttress the argument on the well-celebrated proposition of law that, where statute requires a thing to be done in a certain manner, it has to be done in that manner alone or not at all. Any deviation or adoption of other methods of performance is forbidden under the law.
17. It is submitted that, due to breach of the Rules in publication of notification and also due to absence of any mention of the subject permitted by the DI in his 'no objection' letter but instead mentioning some other subject, stand in violation of the prescribed Rules. That, a process undertaken as per the notification which is in violation of the statutory Rules is to be rendered invalid and illegal as a process of recruitment which has no sanctity in the eye of law. In that event, appointment even if any given to the so-called selected successful candidates, should stand annulled as per law. Hence, according to the said respondent, there is no merit in the instant writ petition and the same should be dismissed.
18. The school authority represented by Mr. Roy learned advocate has largely supported the argument advanced by Mr. Bhattacharya, for the petitioners. Mr. Roy says that the school authority has duly complied with the statutory and legal formalities in conducting the recruitment and that the impugned order of the DI is unfounded and not maintainable in the eye of law.
19. Article 30(1) of the Constitution of India confers upon minorities, whether based on religion or language, the fundamental right to

establish and administer educational institutions of their choice. The object of this provision is to preserve the distinct language, script and culture of minorities and to ensure that the State does not interfere with their autonomy in the matter of administration of such institutions. The scope and ambit of Article 30 has been elaborately interpreted by the Hon'ble Supreme Court in several decisions, notably in ***T.M.A. Pai Foundation v. State of Karnataka*** reported in **(2002) 8 SCC 481** wherein it was held that the right to administer an educational institution includes the right to select and appoint teachers and other staff, subject to reasonable regulations framed by the State in the interest of maintaining educational standards. The Court clarified that while the State may impose regulatory measures to ensure excellence in education, such regulations must not abrogate or substantially dilute the core right of administration guaranteed to minorities.

- 20.** Similarly, in ***St. Stephen's College v. University of Delhi*** reported in **(1992) 1 SCC 558**, the Hon'ble Supreme Court reiterated that minority institutions enjoy a degree of autonomy in the management of their affairs, including the selection of staff. However, such autonomy does not render the institution immune from regulatory oversight designed to maintain fairness, transparency, and academic standards.
- 21.** In the present case, the petitioner No.1 institution is admittedly a recognized minority educational institution. Consequently, it enjoys the protection of Article 30(1) of the Constitution. The preparation of a panel for appointment to teaching posts forms an integral part of the administrative functioning of the institution. The right to select candidates through a duly constituted selection process is therefore a component of the institution's right of administration.

- 22.** Nevertheless, it is equally well settled that the State may prescribe procedures relating to qualifications, selection processes and approval of appointments to ensure that the quality of education is not compromised. Such regulatory provisions do not infringe Article 30 of the Constitution so long as they are reasonable and do not interfere with the essential right of the minority institution to choose members of its own workforce, both teaching and non-teaching.
- 23.** The requirement of approval of a panel by the competent authority must therefore be examined in light of this Constitutional balance. If the authority refuses approval on grounds that are purely procedural or technical, without demonstrating any violation of statutory norms or educational standards, such refusal would amount to an unwarranted intrusion into the administrative autonomy of the minority institution protected under Article 30 of the Constitution of India. On the other hand, if the panel is found to be prepared in violation of mandatory statutory provisions relating to eligibility, transparency, or fairness in the selection process, the competent authority would be justified in declining approval, as regulatory oversight aimed at maintaining standards is permissible under the constitutional framework.
- 24.** Thus, while the State retains the power to regulate in the interest of academic excellence and fairness, such regulation cannot be exercised in a manner that effectively nullifies the minority institution's right to administer its educational establishment. The Constitutional guarantee under Article 30 must therefore be harmonized with statutory regulations so that the core autonomy of minority institutions remains preserved.
- 25.** In the context of these principles of law now well settled, the disputed issues in this case may be discussed. The State has prescribed procedures relating to recruitment in a school with

minority status, vide the Notification No.79. Let Paragraph 10 thereof be quoted as below: -

“10. Prior Permission- No prior permission shall require for issuance of advertisement and starting the process to fill up any vacant post duly sanctioned by the State Government in the School Education Department or Director of School Education, West Bengal provided the terms and conditions as stated in para 2 above is fulfilled.”

26. Paragraph 10 of the Notification No. 79 has set out regarding requirement of prior permission of the State Government in the event of recruitment process being taken up by the minority institution. It says that, no prior permission shall be required for issuance of advertisement and starting the process to fill up the vacant post, which is duly sanctioned by the State Government, in the school education department or Director of School Education Department. The only rider is provided that the advertisement and initiation of recruitment process should be in due fulfilment with the terms and conditions as stated in Paragraph 2 of Notification No. 79.

27. It becomes necessary to see what the Paragraph 2 of Notification No. 79 has provided for. Let that be quoted below: -

“2. Qualifications- The appointed candidate shall fulfil the minimum academic qualifications, professional qualifications, age limit and citizenship as laid down in the relevant Recruitment Rules (amended upto the date of advertisement of the vacancy) framed under the West Bengal School Service Commission Act, 1997.”

28. Hence, Paragraph 2 of Notification No. 79 can be seen to have provided for the requirement of fulfilment of the minimum academic qualifications, professional qualifications, age limit and

citizenship by the appointed candidate as laid down in the writ petition recruitment Rules framed under the West Bengal School Service Commission Act, 1997.

- 29.** The respondent/DI in the impugned order dated September 15, 2023 has mentioned amongst the grounds for rejection of the prayer for approval of panel, that the condition of 'No Objection Memo' issued by the said office dated March 25, 2022 has been violated by the school authority/petitioners while publishing the advertisement for recruitment in the present case. In regard to that, the petitioners have contended that, firstly, 'no objection' has not been a compulsorily required formality under the provisions of Notification No. 79 for a recruitment process in the present institution to be commenced. Hence, even if there was any condition mentioned in the 'no objection memo' and not complied with by the school authority, the same is only inconsequential. Secondly, the petitioners say that, no violation of any condition mentioned in the letter of the DI dated March 25, 2022 has been made by the same while publishing the vacancy notification.

- 30.** The contentions in the said letter dated March 25, 2022 of the DI is as follows:-

"With reference to the subject noted above, it is hereby informed that there is no objection of the Office of the District Inspector of Schools (S.E.), Kolkata if four (4) Assistant Teachers (1 A.T. in History, 1 A.T. in Physical Education, Normal Section and 1 A.T. in Chemistry & 1 A.T. in Biological Science in H.S. Section) and one Group-D(Lab attendant) will be appointed by the School Authority of Cathedral Mission High School, for smooth functioning of the School."

- 31.** The DI has mentioned about recruitment process to be commenced for induction of Assistant Teachers in History, Physical Education in Normal Section; Chemistry and Biological Sciences in H.S.

Section. The vacancy notification published in the vernacular newspaper dated June 25, 2022 namely, “Dainik Statesman” mentions one vacancy position for an M.Sc. degree qualified person in the subject ‘Botany’ with B.Ed. training qualification and there appears to be no mention of any subject namely “Biological Sciences”.

- 32.** The Court on consideration of the provisions enumerated in Paragraph 10 and 2 respectively of the Notification No. 79 is of the opinion that, prior permission of the DI is not what is contemplated under the said Rules, for a minority institution like the present petitioner No.1/school, to initiate a recruitment process to appoint teachers as per its sanctioned vacancy, in so far as the appointed persons fulfil the minimum eligibility criteria in terms of qualification, age etcetera, prescribed in the recruitment Rules under the West Bengal School Service Commission Act, 1997. It is pertinent to note in the said advertisement as mentioned above that, the school declares the West Bengal School Service Commission Rules to be followed in case of the recruitment.
- 33.** It is further worth noting at this stage, the ‘Consolidated list’ of different subjects for Class XI-XII published by the West Bengal Central School Service Commission (Page 80 of the writ petition). The subject Biological Sciences has been prescribed to be equivalent to several other subjects including ‘Botany’. Since "Botany" is the only subject taught in the school and not any other subject in the entire group of Biological Sciences according to the "Consolidated list," it is only appropriate that the advertisement specify the subject and the minimal requirements for it, allowing only suitably qualified candidates to apply. According to that perspective, the reference of biological sciences in the DI letter dated March 25, 2022, is in and of itself a vague and non-specific order. Subject ‘Botany’ is duly included in the group of ‘Biological

Sciences’- hence mention thereof in the advertisement duly stand in compliance with the ‘Consolidated List’, as mentioned above. Hence, it cannot be said that, the advertisement infringes the West Bengal School Service Commission Act or Rules in any manner whatsoever. Contrarily, the same has been duly published in compliance with the Paragraphs 10 and 2 of the said notification No. 79. In such view of the fact, the ground as above as enumerated in the impugned order of refusal by the DI, stands negated by this Court here.

- 34.** Further, ground mentioned in the impugned order for refusing the approval of panel by the DI and challenged by the petitioner is non-compliance in the advertisement of the provisions as per ‘Annexure-I’ of the Notification No. 79. ‘Annexure-I’ has provided for certain information which are required to be given in open advertisement for filling up vacant posts of teachers. ‘Clause 1’ thereof has provided that, the advertisement should declare name of the school with complete postal address along with pin code and *phone number*. According to the DI in the said impugned order, the school has failed to provide *phone number* in the advertisement. Hence, the same is violating the statutory provision and thus de hors the law.
- 35.** The question therefore arises that do the ‘Annexure-1’ to the notification No. 79 carry the same legal force as the Rule itself and to be considered part thereof and binding on compliance or are those merely instructions and/or interpretative guidance having no implication in case of any breach. ‘Annexure-1’ of the notification No. 79 starts with the words-

“Annexure – I

[See procedure 4(1)]

Following information shall be given in the open advertisement for filling up vacant posts of Teaching (Including Headmaster/Headmistress)/Non-teaching staff/Librarian.”

36. The wordings thereof are clear and unambiguous that 'Annexure-1' is in the nature of instructions as how the open advertisement for filling up the vacant posts for teachers should be published. Instructions like the above are generally to be followed for the purpose of proper knowledge of the prospective incumbent about the institution so that he or she can submit his application before the same, in a flawless manner. It appears to be guidelines specifically as regards the advertisement format. Therefore, to vitiate the advertisement itself for the alleged partial deviation therefrom, should require proof of prejudice, which has not either been pleaded or proved in this case, by the respondent. In such view of the fact the Rajasthan High Court judgment in ***Diwakar Srimali's case (supra)*** duly pursues this Court to hold that 'Annexure-1', not being a part of Rules vide notification No. 79, and merely instructions and guidelines, partial omission thereof, if any, would not jeopardise the advertisement itself, in absence of any plea of prejudice. The Supreme Court in Ashish Kumar's case (*supra*) has held that only statutory prescription should prevail and any inconsistency in advertisement is to be turned down. As a matter of fact, notification No.79 and the Rules thereunder have not mentioned for providing 'phone number' of the institution, in the advertisement, excepting under 'Annexure-1'. Therefore, question of violation of Rules can hardly arise, in case of omission thereof, particularly in absence of anyone suffering prejudice due to the same. 'Annexure-1' can never override the Rules prescribed in notification No.79 and in case of due compliance particularly with Paragraph 2 of the said notification, the advertisement cannot be faulted due to mere non-compliance of any one clause in the said Annexure. Technical procedural deviations cannot invalidate recruitment without prejudice. In case of an institution with minority status the State may regulate qualifications and standards, not all its procedures for internal administration.

- 37.** As to what should be the required qualification as per the Act of 1997 as mentioned above and required to be mentioned in the advertisement published by the institution can be found out in Notifications No. 1105 and 1106 for teachers in Class XI-XII, which has provided the required minimum educational qualification including professional qualification and age limit of the teachers as above. Let that be quoted below: -

SCHEDULE I

Sl. No.	Name of posts	Educational qualification including professional qualifications	Age-limit
1.	Teachers (Classes XI and XII)	Essential: (a) Post Graduate with at least 50% marks (or its equivalent) from recognised University and Bachelor of Education (B. Ed) from National Council for Teacher Education recognised institution; Or (b) Post Graduate with at least 45% marks (or its equivalent) from recognised University and Bachelor of Education (B. Ed) from National Council for Teacher Education recognised institution [in accordance with the National Council for Teacher Education (Form of application for recognition, the time limit of submission of application, determination of norms and standards for recognition of teacher education programmes and permission to start new course or training) Regulations, 2002 notified on 13.11.2002 and National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2007 notified on 10.12.2007]; Or (c) Post Graduate with at least 50% marks (or its equivalent) from recognised University and B. A. Ed/B. Sc. Ed. from any NCTE recognised institution. Note.—The minimum qualification as prescribed by the NCTE	Minimum 20 years and maximum 40 years. Upper age limit is, however, relaxable by 5 years for Scheduled Caste / Scheduled Tribe candidates, 3 years for Other Backward Classes candidates and 8 years for the Physically Handicapped Candidates.

		on or before the date of publication of advertisement, shall also be considered.	
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SCHEDULE I

Sl. No.	Name of posts	Educational qualifications including professional qualification	Age limit
1.	Teachers (Classes IX and X)	Essential: (a) Graduate /Post Graduate from recognized University with at least 50% marks in either Graduation or Post Graduation (or its equivalent) and Bachelor of Education (B.Ed.) from National Council for Teacher Education recognized institution; Or (b) Graduate /Post Graduate from recognized University with at least 45% marks in either Graduation or Post Graduation (or its equivalent) and Bachelor of Education (B.Ed.) from National Council for Teacher Education recognized institution, [in accordance with National Council for Teacher Education (form of Application for recognition, the time limit of submission of application, determination of norms and standards for recognition of teacher education programmes and permission to start new course or training) Regulations, 2002 notified on 13/11/2002 and National Council for Teacher Education (Recognition norms and Procedures) Regulations, 2007 notified on 10/12/2007]; Or	Minimum 20 years and maximum 40 years. Upper age limit is, however, relaxable by 5 years for Scheduled Caste/Scheduled Tribe candidates, 3 years for Backward Class candidates and 8 years for the Physically Handicapped Candidates and upto 55 years of age for in case of service school teacher.

		(c) 4 years degree of B.A.Ed /B.Sc.Ed. from any National Council for Teacher Education recognized institution. <i>Note.</i> —The minimum qualification as prescribed by the NCTE on the date of publication of advertisement shall also be considered.	
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38. Thus, the prescribed minimum educational and professional qualification and the age limit being as above, the advertisement published which declares the West Bengal School Service Commission Rules to be followed, cannot be said to be in violation or contradiction of the Rules prescribed vide the said Notifications Nos. 1105 and 1106 respectively. Significantly, it should be underlined that regarding qualifications or other eligibility requirements, the State has no objections against the selected individuals. Similarly, as regards the process of selection and its transparency and fairness, no dispute has been raised by the same.

39. The discussion as above has specifically prompted this Court to find that in the case of recruitment and the process thereof, the petitioners have taken appropriate steps in terms of the settled law and procedure which might not have been called in question on the grounds as specified in the said impugned order dated September 15, 2023 by the respondent/DI. There has not been any fundamental breach of law in the process or statutory norms or educational standards including the advertisement published therefor and omission, if any at all, is only incidental having not prejudiced interest of any person. In such circumstances, the DI should have justifiably considered approval of the panel as above,

there being no infringement of the prescribed recruitment procedure in terms of the Rules. Therefore, the Court finds the impugned order dated September 15, 2023 of the respondent/DI to be not only erroneous but irrational, unjustified and arbitrary. The same lacks the tenets on which it could have been sustained by this Court and is found liable to be set aside for the reasons as discussed above.

40. On all as above, the instant writ petition is allowed with the following directions: -

i) Impugned order dated September 15, 2023 of the respondent/DI is set aside as being erroneous, irrational and arbitrary;

ii) Respondent No. 3/DI is directed to immediately accord approval of appointment as sent to it by the petitioner institution under cover of letter dated April 11, 2023, positively within a period of four (04) weeks from the date of communication of copy of this judgment;

iii) The proforma respondents shall be provided with all consequential benefits including arrear salary positively within a period of three (03) months from the date of communication of copy of this judgment and be restored in employment if they are not engaged still now.

41. The writ petition No. WPA 6462 of 2025 is allowed and disposed of along with applications pending in connection therewith if any.

42. Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)