WBCHCO0026532026

s.seal

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/136/2026

IA NO:GA/1/2026

SHAMIM AKHTAR
VERSUS
THE REGISTRAR GENERAL AND ORS.

Mr. S. E. Huda, Adv.
Ms. Nabeela Akbar, Adv.
Ms. Saima Amin, Adv.
Ms. Anwesha Guha Ray, Adv.
Mr. Sk. Aptabuddin, Adv.

…for the Appellant

Mr. Jaydip Kar, Sr. Adv.
Mr. Debashis Banerjee Adv.
Mr. Rakesh Jana, Adv.

…for Respondent Nos.1 & 2

Mr. Ajit Kr. Mishra, AGP
Dr. N. G. Khaitan, Adv.
Mr. Raj Mohan Chattoraj, Adv.

...for the State

CORAM: RAVINDRA VITHALRAO GHUGE, CJ
&
OM NARAYAN RAI, J
Date: 13-11-2026

ORDER (Per Court)

1. By this Appeal, the Appellant/Petitioner seeks to assail the judgment of the Learned Single Judge dated 28.04.2026, delivered in WPO/102/2025 by which the Petitioner's Petition was dismissed.

2. On 13.10.2026, we had passed the following order:-

> "1. The Learned Advocate representing the High Court submits that the State Government has introduced a fresh 100 point reservation policy *qua* the OBC, in the light of the S.L.P filed by the State before the Hon'ble Supreme Court posing a challenge to the judgment of this Court dated 22nd May, 2024 in ***W.P.O. 60 of 2011 (Amal Chandra Das v. State of West Bengal & Ors.)***. The said SLP was withdrawn by the State. As a consequence, the selection process which is the subject matter of this Writ Petition, which has passed the first phase and is approaching the second phase, has been interjected by the said new reservation policy, meaning thereby, that the

new reservation policy has now been made applicable to the same selection process, *albeit*, from the second phase.

2. We find that the issue whether such new reservation policy could be made applicable to a selection process, which is already underway having completed the first phase and approaching the second phase, is a matter of circumspection. Let the Learned Advocates take instructions and address the Court on the next date. If advised, the Learned Advocate for the High Court may even consult the Learned Advocate General for guidance.

3. List on **13th November, 2026 in the urgent supplementary list**."

3. The Learned Senior Counsel appearing on behalf of the High Court submits on instructions that the issue taken up by this Court in paragraph no. 2 of the above reproduced order, could be dealt with by the High Court on the Administrative Side. The Learned Advocate for the Petitioner accepts the view expressed by the Learned Senior Counsel for the High Court and submits that,

firstly, the said issue was not raised by the Petitioner and, secondly, the High Court may consider the said aspect on its Administrative Side.

4. In view of the above statements, the issue taken up by this Court as set out in paragraph 2, may be taken up by the High Court on its administrative side and, therefore, we are not considering the said issue on the judicial side.

5. In the above backdrop, the challenge of the Appellant (original Petitioner) to the order of the Learned Single Judge dated 28.04.2026 (hereinafter referred to as 'the impugned order'), is restricted to the controversy concerning question no. 70, which was a part of the question paper in the LDA/24 Examination in booklet series 'B', which reads as under:-

> *"In a family, there are 7 sisters and each sister has 1 brother. How many children are there in total in this family?*
>
> *(A) 7* *(B) 8*
>
> *(C) 14* *(D) 15"*

6. The contention of the Petitioner/Appellant is that the provisional answer key indicated the correct answer at clause (B). There were several objections raised with regard to various aspects of the question paper as a part of the objections called for by the examining body. One objection was with regard to question no. 70. After considering the objections, an alteration was made in the answer key to question no. 70, by indicating the correct answer at serial no. (C) instead of the answer at serial no. (B).

7. While dealing with the above aspect, we find that the Learned Single Judge had taken into account the said controversy while reproducing the said question below paragraph 2. As regards the objections raised, the Learned Single Judge has recorded the submissions of the parties in paragraph nos. 3 to 9 which read as under :-

> 3. Learned advocate for the petitioner submits that by any stretch of reasoning, the answer to the subject question has to be option 'B', i.e., eight children and not option 'C', i.e., 14 children.
>
> 4. Learned advocate relies upon various answers

given to this question generated by Artificial Intelligence and submits that on each and every occasion, the answer has been found to be eight children.

5. It has been submitted that the authority sought for objection after publication of the preliminary answer key. The same was not mentioned in the advertisement for recruitment. It has been submitted that after publication of the final answer key, there were several objections filed by the candidates. The authority did not consider such objection. It has been argued that if objection has been considered after publication of the preliminary answer key, then objection ought to have been considered after publication of the final answer key also.

6. It has been submitted that the report filed by the authority mentions about bare facts without any supporting document. In the absence of any document, the Court may not be in a position to ascertain as to how the answer to the subject question may have been assessed.

7. It has been contended that the reasoning given by the Hon'ble Committee for not considering the objections which were raised after publication of the final answer key

that even if one mark is awarded to the candidate, then they would not have come within the zone of consideration, will not be applicable in the case of the petitioner as he had only one mark short of the qualifying mark.

8. Prayer has been made to appoint an expert to assess the disputed question.

9. Learned advocate representing the respondents opposes the prayer of the petitioner, Report by the Registrar (Recruitment and Management) has been relied upon. The report mentions that the provisional answer key was published and objections were invited from the candidates to be submitted within a stipulated time period. As many as eight objections were received in respect of the subject question. The views and objections were forwarded to the paper setter and the same was placed before the Recruitment and Promotion (High Court) Committee for consideration. After considering the views and opinion of the paper setter, the Committee arrived at final conclusion that the correct answer to the subject question will be option 'C, i.e., fourteen children and not option 'B', i.e., eight children as indicated in the provisional answer key.

8. While drawing its conclusions, the Learned Single Judge recorded in paragraph nos. 10, 11 and 12 of the impugned order, as under :-

> "10. The report further mentions that even after publication of the final answer key, several representations and objections were submitted by candidates but the same could not be considered as per the decision. taken by the Hon'ble Committee. It has been mentioned that at every stage of the selection process, deliberation was made by the Hon'ble Recruitment and Promotion Committee and an approval was obtained from the Hon'ble Chief Justice. It has been contended that the selection process is being conducted strictly in accordance with the rules framed.
>
> 11. Upon hearing the submissions made on behalf of both the parties and on perusal of the materials placed before this Court, it appears that the petitioner has not been able to clear the qualifying marks to appear in the second phase of the recruitment process. The objection raised by the petitioner was duly considered by the authority and the stand of the petitioner has been negated by the Committee.

The said decision was duly approved by the Hon'ble Chief Justice.

12. The submission made by the petitioner that documents in support of the report have not been annexed does not help the petitioner in any manner. In a public recruitment process, there may be several documents that may be required to be considered by the authority. Each and every document is not required to be made public. The fact that the objection filed by the petitioner was duly considered is enough for a job aspirant. No case has been made out by the petitioner that the process adopted by the authority is illegal or arbitrary. A job aspirant has to accept the final decision taken by the recruiting authority. A candidate appearing in a recruitment process cannot expect the recruiting authority to act as per his dictates."

9. It is well-settled that the Court cannot assume the role of an academic expert. While dealing with the issue as to which answer could be the correct answer to a particular question, it has to be left to the wisdom of an expert body. It has also been recorded in the impugned order, paragraphs of which have been

reproduced above, that the objections were dealt with by the Committee and it was finally concluded that the option at serial no. (C) would be the correct answer to question no. 70 of booklet series B.

10. We find that the question pertains to testing the common sense of the appearing candidate/examinee. It was an issue of a family having 7 sisters and the test was as to how many members would comprise the family if each of those 7 sisters had one brother. If there was one son in such family to a couple having 7 daughters, obviously each of those daughters/*inter se* sisters, would have had one brother, the lone son in the family. He would have become the solitary brother to each of such 7 sisters. This being a very simple question, the option at clause (B) indicating 8 children in the family, was the correct answer. If each sister had one individual brother, these sisters being biologically related to each other, would find such solitary brother to be a biological brother to each of them. Therefore, each sister could say that she has one brother. To include 7 brothers, it would have to be presumed that each sister had one individual brother, who was not a biological brother to any of the other 6 biological sisters.

Nevertheless, the Committee approved option (C) as being the correct answer which indicated 14 children in the family.

11. Be that as it may, we are now not called upon to deal with this issue, since the Learned Senior Counsel representing the High Court is instructed to convey to us that the High Court would now treat both the answers, at clause (B) and (C), as being the correct answers. There are 291 posts of Lower Division Assistants which are vacant with the Original and Appellate Sides of the High Court and there is a desperate need to fill up these posts at the earliest. Therefore, all those candidates who may have offered the answer available at option (B) or option (C), would be treated as having answered the question correctly. Consequentially, each of the candidates who have appeared for the LDA/24 Examination and who have offered the answer at options (B) or (C), would be granted one mark which was allocated to the correct answer and all such examinees who have opted for answers at clauses (B) and (C), would be evaluated with the addition of one mark as against question no. 70 of booklet series B.

12. In view of the above statements made on instructions,

the present Appeallant who has suffered deduction of one mark under the principle of negative marking, setting his score at 49, would now actually stand to gain one mark for a correct answer to question no. 70 and there would be no deletion of one mark. He would now secure 51 marks out of 100 instead of 49, and would qualify for the next round.

13. The Learned Advocate for the Appellant/Petitioner submits on instructions that he is satisfied and this Appeal may be **disposed off** in the light of the above statement.

14. In view of the above, this **Appeal is disposed off** by recording that all those candidates who may have offered answers at option (B) or (C) to question no. 70 of booklet series B, would be treated as having correctly answered question no. 70. Their results are directed to be reconsidered and with the addition of one mark and by doing away with the deletion of one mark towards the negative marking for a wrong answer, be republished. All qualifying candidates, accordingly, would become eligible for the next stage of the examination, which is a written test. Consequentially, the impugned order shall lose it's efficacy.

15. **All pending Interim Applications would not survive and stand disposed off**.

(OM NARAYAN RAI, J.) **(RAVINDRA V. GHUGE)**
(CHIEF JUSTICE)