

09.04.2024.
Court No. 13
Item Nos.1 & 2
ap

W.P.A. No. 2005 of 2022
Santanu Sit & Ors.
Versus
The State of West Bengal & Ors.
With
W.P.A. No. 9834 of 2022
Bablu Pal & Ors.
Versus
The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharyya, Sr. Advocate,
Mr. Dibyendu Chatterjee,
Mr. Pritam Majumdar,
Ms. Reshmi Ghosh,
Ms. Parna Mukherjee,
Ms. Barnali Gantait,
Ms. Satabdi Das,
Mr. Rahul Deb Goenka,
Mr. Mainak Singha Barma.

...For the petitioners in WPA 2005 of 2022.

Mr. Bikash Ranjan Bhattacharyya, Sr. Advocate,
Mr. Sudipta Dasgupta,
Mr. Ali Ahasan Alamgir,
Ms. Soma Mal,
Ms. Rabia Khatoon.

...For the petitioners in W.P.A. No. 9834 of 2022.

Mr. Dhiraj Trivedi, Id. DSGI,
Mr. Arijit Majumdar,
Ms. Supriti Sarkhel.

...For the CBI.

Mr. Subir Sanyal,
Mr. Saikat Banerjee,
Mr. Ratul Biswas,
Mr. Kaushik Chowdhury.

...For the WBBPE.

Mr. Supriyo Chattopadhyay, Id. AGP,
Ms. Iti Dutta.

...For the State.

Re: W.P.A. No. 2005 of 2022

1. Let W.P.A. 15010 of 2022, W.P.A. 2005 of 2022,
W.P.A. 14826 of 2022, W.P.A. 22026 of 2022, W.P.A.
24885 of 2022, W.P.A. 26602 of 2022, W.P.A. 22684 of

2023, W.P.A. 23704 of 2023, W.P.A. 9806 of 2024, W.P.A. 19585 of 2023, W.P.A. 23076 of 2022, W.P.A. 1532 of 2022, W.P.A. 29142 of 2022, W.P.A. 22206 of 2023, W.P.A. 28737 of 2023, W.P.A. 13614 of 2022, W.P.A. 17752 of 2023, W.P.A. 24445 of 2023, W.P.A. 24467 of 2023, W.P.A. 26350 of 2023 be tagged along with these writ petitions.

2. The subject matter of the writ petitions is the TET Examination for the year 2014. A Co-ordinate Bench of this Court by an order dated 27th September, 2022 had directed the Central Bureau of Investigation (in short 'CBI') to register cases and investigate the improprieties found in the conduct of the said examination and storage of data of candidates, who participated the examination.

3. Counsel for the CBI submits that in respect of this examination process, R.C. Case No. 6 of 2022 was registered and a charge-sheet and a supplementary charge-sheet have been filed.

4. Several confidential reports have been filed before this Court. One such report is available on record although in an unsealed condition. What has, however, been placed before this Court is a report of the CBI dated 29th November, 2023. This Court has considered the same and found as follows:

(a) While the Board has gone on record stating that the OMR sheets of the candidates, who participated in the

examination, were destroyed sometime in the end of 2017, at least one candidate, namely, Hemanta Chakraborty has been supplied with copy of OMR sheet in the year 2019.

(b) The OMR sheets were in the custody of an agency, namely, S. Basu Roy & Company. The agency was to have stored in a digitized form both the images of the original OMR sheets as also the data collected from such documents. The said S. Basu Roy & Company is stated to have handed over the said OMR sheets to a third party for destruction.

(c) The report of the CBI further indicates that as on date only the digitized data and not captured images of the original OMR sheets have been accessed by it.

5. This Court, however, is of the view that in the backdrop of the facts that have emerged in these proceedings it is possible that the images of OMR sheets captured and duly digitized, are available somewhere. It could be on the server seized by the CBI from M/s. S. Basu Roy & Company or the said third party, who is stated to have received the responsibility of destroying the voluminous OMR sheets. This finding is further strengthened by the fact that one candidate was supplied a copy of the OMR sheet in the year 2019.

6. This Court, therefore, directs the CBI to access the meta data of the hard disk in the servers of M/s. S.

Basu Roy & Company and from any other sources including that of the WBBPE to find out if the image copies of the actual OMR sheets of the candidates who participated in the said examination are available in any place. Technology has it that any digitized footprint once created can always be accessed, despite any attempt of deleting the same.

7. This effort on the part of the Court is to ascertain a possible solution to the controversy that has arisen in respect of TET, 2014. It further appears from the report of the CBI that atleast 304 candidates have been granted appointments illegally based on a fake qualification obtained in TET-2014.

8. Considering the fact that the charge-sheet and supplementary charge-sheet have been filed by the CBI in R.C. Case No. 6 of 2022, this Court can definitely proceed on the basis of a civil impropriety and/or illegality that has occurred in TET, 2014 examination process.

9. In the backdrop of the aforesaid, this Court directs the CBI to bring on record by way of an affidavit, copies of the charge-sheet and supplementary charge-sheet filed in R.C. Case No. 6 of 2022.

10. A summary of the findings of the CBI, which was the basis of the charge-sheets to the extent that they do not compromise, a further investigation and/or trial that will follow, shall be filed by the CBI on the

adjourned date. The CBI shall furnish its observations of the improprieties it has found in the said TET, 2014.

11. This report affidavit of CBI shall be circulated to all the parties.

12. The parties, if they choose, may respond to the same by way of any affidavit in reply from their side.

13. Let a affidavit be filed by the CBI by 16th April, 2024.

14. The Board and the petitioners may respond to the same within five days thereafter. The Board may also respond on affidavit to any of the pleadings filed by the writ petitioners in any of two writ petitions.

Re: WPA 9834 of 2022

15. Report filed by the petitioners to the affidavit-in-opposition of the Board in W.P.A. No. 9834 of 2022 is taken on record.

16. List these matters on **22nd April, 2024** as ***Specially Fixed Matters*** at the top of the list before matters marked "To Be Mentioned".

17. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)