

03-05-2024
ct no. 13
Sl. 3 to 24 and 254
sp

WPA 2005 of 2022
With
CAN 1 of 2024
With
CAN 2 of 2024
With
CAN 3 of 2024
With
CAN 4 of 2024
With
CAN 5 of 2024
With
CAN 6 of 2024
With
CAN 7 of 2024
With
CAN 8 of 2024
With
CAN 9 of 2024
With
CAN 10 of 2024
With
CAN 11 of 2024
With
CAN 12 of 2024
With
CAN 13 of 2024
With
CAN 14 of 2024
With
CAN 15 of 2024
With
CAN 16 of 2024
With
CAN 17 of 2024
With
CAN 18 of 2024

Santanu Sit & Ors.

-Versus-

The State of West Bengal & Ors.

With

WPA **11201** of 2024

Avijit Patra

-Versus-

The State of West Bengal & Ors.

With

WPA **11203** of 2024

Debabrata Das.

-Versus-

The State of West Bengal & Ors.

With

WPA **11407** of 2024

Ranjit Mondal & Ors.

-Versus-

The State of West Bengal & Ors.

With

WPA **12150** of 2024

Bablu Biswas

-Versus-

The State of West Bengal & Ors.

With

WPA **9834** of 2022

Bablu Pal & Ors.

-Versus-

The State of West Bengal & Ors.

With

CAN 1 of 2024

With

CAN 2 of 2024

With

CAN 3 of 2024

With

CAN 4 of 2024

With

CAN 5 of 2024

With

CAN 5 of 2024

With

CAN 6 of 2024

With

WPA **17752** of 2023

Nihar Ali

-Versus-

The State of West Bengal & Ors

With

WPA **24465** of 2023

Md. Delawar Hosain Molla & Ors.

-Versus-

The State of West Bengal & Ors.

With

WPA **25746** of 2023

Sabnam Sultana & Ors.

-Versus-

The State of West Bengal & Ors.

With

WPA **24445** of 2023

Sirajum Munira

-Versus-

The State of West Bengal & Ors

With

WPA **24885** of 2022

Amit Kumar Mondal & Ors.

-Versus-

The State of West Bengal & Ors.

With

WPA **26602** of 2022

Koyena Dey & Ors.

-Versus-

The State of West Bengal & Ors.

With

WPA **26350** of 2023

Mrinmoy Sarkar & Ors.

-Versus-

The State of West Bengal & Ors.

With

WPA **1313** of 2024

Rajsekhar Mondal & Ors.

-Versus-

The State of West Bengal & Ors.

With

WPA **22684** of 2023

Sampa Ghorui

-Versus-

The State of West Bengal & Ors.

With

WPA **23704** of 2023

Sukumar Dey & Ors.

-Versus-

The State of West Bengal & Ors.

With

WPA **5893** of 2024

Md. Azharuddin & Ors.

-Versus-

The State of West Bengal & Ors.

With

WPA **7493** of 2024

Raj Kumar Mal

-Versus-

The State of West Bengal & Ors.

With

WPA **29142** of 2022

Ashik Mondal & Ors.

-Versus-

The State of West Bengal & Ors.
 With
 WPA 22206 of 2023
 Imran Ali Sk. & Ors.

-Versus-

The State of West Bengal & Ors.
 With
 WPA 28737 of 2023
 Bijay Debnath & Ors.

-Versus-

The State of West Bengal & Ors.
 With
 WPA 14826 of 2022
 Debabrata Majhi & Ors.

-Versus-

The State of West Bengal & Ors.
 With
 WPA 13614 of 2022
 Md. Rabiul Hoque & Ors.

-Versus-

The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharyya,
 Mr. Dibyendu Chatterjee,
 Mr. Rahul Deb Goenka
 Mr. Pritam Majumdar,
 Ms. Reshmi Ghosh,
 Ms. Satabdi Das,
 Mr. Mainak Singha Barma

..for the petitioners in WPA 2005 of 2022, WPA 24885 of
 2022, WPA 26602 of 2022, WPA 22684 of 2022, WPA 23704
 of 2023 and WPA 14826 of 2022

Mr. Partha Sarathi Deb Barman,
 Mr. N. Chowdhury

...for the applicants in CAN 1 of 2024 (in item no. 3) and
 CAN 3 of 2024 (item no. 4)

Mr. Ashoke Banerjee,
 Mr. Debdatta Saha,
 Mr. Subhamay Dewanji

...for the applicants in CAN 2 of 2024 (item no. 3)

Mr. Shanti Ranjan Das,
 Mr. Sushanta Kr. Rakshit,
 Mr. Sayantan Rakshit,
 Mr. Manish Biswas,
 Mr. Sujit Chatterjee,
 Mr. K.P. Mukhopadhyay

...for the added respondents in CAN 4 of 2024, CAN 5 of 2024, CAN 7 of 2024, CAN 8 of 2024, CAN 9 of 2024, CAN 10 of 2024, CAN 11 of 2024, CAN 12 of 2024 and CAN 13 of 2024 (in item no. 3)

Mr. Shiladitya Barma
...for the applicant in CAN 15 of 2024 (item no. 3)

Mr. Shyamal Sarkar,
Mr. Piyus Chaturvedi,
Mr. Kuntal Ray
..for the respondent in CAN 5 of 2024 (in item no. 3)

Mr. K.M. Hossain,
Mr. K. A. Ali
..for the applicant in CAN 6 of 2024 (in item no. 3)

Mr. Rabiul Islam,
Mr. Raju Mondal,
Md. Bani Israil
...for the applicants in CAN 14 of 2024 (item no. 3)

Mr. Ali Ahsan Alamgir,
Ms. Rabia Khatoon,
Ms. Soma Mal
..for the petitioners in WPA 11201 of 2024, WPA 11203 of 2024, WPA 12150 of 2024, WPA 17752 of 2023, WPA 24445 of 2023, WPA 26350 of 2023, WPA 1313 of 2024, WPA 5893 of 2024 and WPA 7493 of 2024

Mr. Avik Pramanick
...for the petitioners in WPA 11407 of 2024

Mr. Sudipta Dasgupta,
Mr. Ali Ahsan Alamgir,
Ms. Rabia Khatoon,
Ms. Soma Mal
..for the petitioner in WPA 9834 of 2022

Mr. Arunava Ghosh,
Mr. Anindya Lahiri,
Mr. Samrat Dey Paul,
Mr. Anish Chakraborty
...for the added party

Mr. Sakya Sen
..for the applicants in CAN 3 of 2024

Mr. Soumya Majumder,
Mr. Binayak Gupta Bhैया
...for the petitioner in CAN 4 of 2024
Mr. Sudhasatva Banerjee,
Mr. Saptarshi Banerjee,
Mr. Binayak Gupta Bhैया

...for the applicant in CAN 5 of 2024

Mr. Soma Pal

...for the petitioner in CAN 6 of 2024 (in item no. 6)

Mr. Anindya Bose,

Mr. Vishak Bhattacharya,

Mr. Biyanka Bhattacharya,

Mr. Mridul Biswas

...for the petitioner in WPA 24465 of 2023 and WPA 25746
of 2023

Mr. Firdous Samim,

Ms. Gopa Biswas,

Ms. Payel Shome,

Ms. Sampriti Saha,

Mr. Avijit Kar,

Ms. Mohona Das

...for the petitioner in WPA 29142 of 2022, WPA 22206 of
2023 and WPA 28737 of 2023

Mr. Soupal Chatterjee,

Mr. Prabir Kr. Das,

Mr. Anupam Das,

Mr. Abhishek Bhattacharya,

Mr. P. Mukherjee

..for the petitioners in WPA 9948 of 2024, WPA 11817 of
2024 and WPA 21322 of 2023

Ms. Riya Das

...for the petitioners in WPA 13614 of 2022

Mr. Supriyo Chattopadhyay,

Mr. S. Banerjee,

Ms. Iti Duta,

Mr. R.K. Ganguly

...for the State in WPA 2005 of 2022

Mr. Anindya Lahiri,

Mr. Samrat Dey Paul,

Mr. Anish Chakraborty

..for the respondent nos. 7 to 10

Mr. Jayanta Samanta,

Ms. Indumouli Banerjee

...for the State in WPA 11201 of 2024

Mr. Samim ul Bari,

Ms. Sahina Sumi

...for the State in WPA 11203 of 2024

Mr. Biswabrata Basu Mallick,

Ms. Mrinalini Majumder,

Mr. Biman Halder

..for the State in WPA 11407 of 2024

Mr. Jahar Datta,
Mr. Biman Ghosh

.. for the State in WPA 9834 of 2022

Mr. Bhaskar Prasad Vaisya,
Mr. Sagnik Chatterjee

...for the State in WPA 16777 of 2022

Mr. Biswabrata Basu Mallick,
Mr. Biman Halder

...for the State in WPA 24445 of 2023

Mr. S. Banerjee,
Mr. Ritesh Kumar Ganguly
...for the State in WPA 26602 of 2022 and WPA 7493 of
2024

Mr. Bhaskar Prasad Vaisya,
Mr. Arindam Chattopadhyay

...for the State in WPA 22684 of 2023

Mr. Shamim ul Bari,
Mr. Soumyajit Ghosh

...for the State in WPA 23704 of 2023

Ms. Tapati Samanta

..for the State in WPA 5893 of 2024

Mr. Biswabrata Basu Mallick,
Mr. Sayan Ganguly

..for the State in WPA 29142 of 2022

Mr. Biswabrata Basu Mallick,
Mr. Parna Roy Chowdhury

..for the State in WPA 22206 of 2023

Mr. L.K. Gupta,
Mr. Subir Sanyal,
Mr. Saikat Banerjee,
Mr. Ratul Biswas,
Mr. Kaushik Chowdhury

...for the WBBPE in all matters

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

...for the CBI in item no. 3 to 4

1. Issues / Questions that arise from the pleadings filed till date to be addressed by the parties in respect of the TET Exam of 2014 results whereof were published on 14th September 2016.

I ROLE OF THE West Bengal Board of Primary Education (WBBPE/Board)

a. Were there any Rules/Guidelines framed by the Board to conduct the TET Examination process in terms of Rule 9(2), 12 and 19(1)(d) of the West Bengal Primary School Teachers Recruitment Rules of 2001 ?

b. In the absence of any Rules/ Guidelines framed by the Board does the procedure adopted by the Board pass the “reasonableness test” ruling out the vice of Arbitrariness ?

c. Why did the Board use the expression “Sheet” while supplying OMR to a candidate in 2017 and the expression “Digitised Data” in 2022 ?

d. Why were there no Tenders floated to appoint an agency to deal with the data in respect of the TET 2014 ? What was the basis of Selection of M/s SBasu and Co ?

e. What was the scope of duties and authority specifically entrusted to S Basu and Co in the TET 2014 by Board ?

f. Was S Basu and Co specifically authorized by the Board to Scan and digitize data and that too in the latter’s office ?

g. How were the OMR Sheets carried from the Board’s office to M/s SBasu and Co ?

h. What is the stand of the WBBPE to the CBI’s findings that there was a conspiracy hatched between Manik Bhattacharyya Chairman of the

WBBPE , Gautam Mukherjee, Partha Sen partners of S.Basu and Co and there appears to be active participation of Late Ashok Kumar Majhi, Kaushik Majhi, Amarnath Majhi employees and one Rahul Keshari of RKGV enterprises (engaged by S Basu and Co) to destroy the original OMR sheets.

II ROLE OF S.BASU AND CO

(i) Why was the list of Candidates sent by Gautam Bhattacharyya, a partner of S Basu and Co to the personal email ID of Manik Bhattacharya and not to the WBBPE ?

(ii) Was M/s SBasu and Co asked to hand-over the Original OMR sheets of candidates to the WBBPE ?

(iii) Was S Basu and Co authorized to engage any other agency in the process of dealing with the OMR Sheets after completion of the Mirror imaging and digitization of the OMR Sheets ?

(iv) Did M/s S.Basu and Co follow the normal process of ,

a) Creation of OMR Template along with correct answer keys,

b) Creation of Sample Data ie answer keys pour the sample data into Sample Sheets

c) Scan the OMR Sheets with the Template and thereafter create a mirror image of the OMR Sheets ?

(v) Did M/s S.Basu and Co Scan the Mirror image of the OMR Sheets of each candidate and was a Scan Number, Carton Number, Challan Number and Lot number allotted to each OMR Sheet ?

(vi) Was the Digitised Data produced by the Board as supplied by M/s S. Basu and Co, follow the above procedure?

(vii) In the absence of the above procedure being followed does the digitized data produced by the Board of the marks of the candidates concerned, qualify as Secondary evidence within the meaning of Section 62 to 65 of the Evidence Act and pass the test prescribed in in Para 33 of the decision of the SC in **Arjun Panditrao Khotkar Vs Kailash Gurantrao Gorantial reported in (2020) 7 SCC Pg 1.**

III. The Original OMR Sheets :-

i) By a resolution of the Board dated 17th November 2015 it was decided that the OMR sheet of each candidate could be supplied to him if applied for between 16th September 2016 and 9th November 2016. There were approximately 12.95 lac OMR sheets.

ii) The OMR sheets of all candidates were most likely scanned since a candidate was provided in the year 2017 to one candidate Hemanta Chakraborty Roll Number 160076124. It is impossible to trace out the original of one OMR Sheet amongst the lacs of candidates.

iii) In terms of the CBI report, about 8000 OMR sheets were supplied by S Basu to the Board. This is impossible without the scanning of the said 12.5 lac OMR Sheets.

iv) About 2830 Candidates who fell short of 1 mark in the Bengali exam were given the same by grace of the then Chairman ManikBhattacharrya and were appointed. It is once again impossible to

trace out the marks of the said candidates, unless their OMRs were scanned.

v) About 752 unqualified candidates were shown as withheld by the Board. The said candidates were subsequently shown as qualified and 352 candidates were appointed. This would not have been possible if the OMRs were not scanned.

vi) This scanning was done using an **ADF Scanner**. This Scan would save the mirror image of the original OMR sheet answered by each candidate. The data stored by this **ADF Scanner** has been destroyed by one Kaushik Majhi a partner of S.Basu and Company.

vii) What is available with M/s S. Basu and Co is the Mirror image captured by a **SEKONIC Scanner**, data whereof is editable. The digital data prepared on the basis of the images of the OMR sheets scanned by the **SEKONIC Scanner** are therefore not reliable and the OMR sheets captured by this process can be manipulated.

viii) Who had authorized or instructed , M/s S.Basu and Co to destroy the data captured by the **ADF Scanner** ?

ix) Was S.Basu and Co authorized to engage M/s RKVG to destroy the OMR Sheets ? Was the destruction of the OMR sheets within the scope of the authority of S.Basu and Co ?

x) Is not destruction of the Original OMRs a part of the duty of the board which cannot be delegated ?

xi) Is there a contradiction between S Basu & Co and the Board on one hand and the M/s RKGV on the place and manner of destruction of the OMR sheets ?

xii) Why has M/s SBasu and Co not shared the original scanned copy of the OMR sheets with the Board ? Why has the Board not asked for the same ? Why was the Board satisfied with the alleged digitized data from the OMR sheets ?

xiii) Does the CBI need to engage another private reputed organization to attempt to retrieve the erased data captured by the ADF Scanner?

IV. **The Eligible Vs Ineligible Candidates**

i) Could it not be presumed that the persons whose names featured in the fake Website www.wbtetresults.com and those who paid money under the email, donotreply@prim-tet, are the unqualified candidates?

ii) Can and has the WBBPE furnished a list of qualified and unqualified candidates in TET-2014, to this Court ?

iii) Since prima facie it appears from the report of the CBI that there have been largescale irregularities in the conduct of the TET-2014 examination process, and the WBPPE is not able to segregate the qualified from the unqualified candidates can the examination process for conducting TET-2014 survive?

iv) The parties may address Court inter alia by reference to the decisions of **Sachin Kumar Vs Delhi Subordinate Service Selection Board reported in (2021) 4 SCC 631. Inderdeep Singh Kahlon Vs. State of Punjab reported in (2006) 11 SCC Pg 356**

2. The parties may address Court on other issues as well as they deem fit.

3. In the 4th and 5th page of the of the order dated 30th April, 2024, the name of Mr. Ratul Biswas and Mr. Soumyadipa Kanu, learned counsel for the petitioners shall stand deleted.
4. In the 4th page of the of the order dated 30th April, 2024, the name of Ms. Priyanka Saha, Mr. Ishan Bhattacharya shall stand corrected as having represented the applicants in CAN 5 of 204 in WPA 2005 of 2022.
5. Let the names of Mr. Shanti Ranjan Das, Mr. Sushanta Kr. Rakshit, Mr. Sayantan Rakshit, Mr. Manish Biswas, Mr. Sujit Chatterjee and Mr. K.P. Mukhopadhyay, the learned advocates stand recorded as having represented the applicants in the applications for addition of parties in respect of WPA 2005 of 2022.
6. As already directed on 30th April, 2024, the matters shall be listed 8 weeks hence, i.e., June 24, 2024.

(Rajasekhar Mantha, J.)