

09.06.2023
(D/L-16)
Ct.-18
(Susanta)

W.P.A. 13463 of 2023

Masud Billa Sardar & Ors.
-Vs-
The State of West Bengal & Ors.

Mr. Firdous Samim,
Ms. Gopa Biswas,
Ms. Payel Shome,
Ms. Sampriti Saha,
.... *For the Petitioners.*

Mr. Prosenjit Mukherjee,
Ms. Madhurima Sarkar,
....*For the Mdarasah Service Commission.*

Mr. Sauvik Nandy,
....*For the NCTE.*

Mr. Sutanu Kumar Mitra,
Mr. Subhabrata Das,
.... *For the State.*

Affidavit-of-service filed on behalf of the petitioners
be kept with the record.

The West Bengal Madrasah Service Commission
(‘the Commission’ in short) in terms of *The West Bengal
Madrasah Commission Recruitment(Selection and
Recommendation of Persons for Appointment and
Transfer to the Posts of Teacher and Non-Teaching Staff)
Rules, 2023* (‘the said Rules of 2023’ in short) and
following the guidelines of the National Council for
Teacher Education(‘the NCTE’ in short) vide Notification
bearing No. MSC/Notice/03/2023 dated May 04, 2023,
has notified to hold Teacher Eligibility Test(Advance
Arabic, Arabic Madrasah and Arabic UG).

The Commission has set up guidelines prescribing
inter alia, the eligibility criteria, in terms thereof, only
the candidates having D.El.Ed./ B.Ed. Training

qualification recognized by the NCTE are eligible to participate in the said test.

The grievance of the petitioners is that they are pursuing their training qualification and in terms of the guidelines of the NCTE, they are eligible to participate in the said test.

Mr. Samim, learned Counsel for the petitioners submits that the guidelines framed by the NCTE for conducting the said Teacher Eligibility Test prescribes that a person who is pursuing any of the Teachers Education courses recognized by NCTE or RCI, as the case may be, specified in the NCTE notification dated August 23, 2020 are eligible to participate in such Test.

Mr. Samim refers to a letter written by the Undersecretary, NCTE to the Deputy Director of Education, (DRC E-III) bearing file No. NCTE-Reg1018/1135/2018-US (Regulation Section)-HQ dated August 04, 2022 being annexure P- '6' to the writ petition to contend that "Pursuing" the requisite teacher training course is sufficient to make such a candidate eligible to appear in the Teacher Eligibility Test.

Mr. Souvik Nandi learned advocate for the NCTE submits that the records reveals the stand of the NCTE that the candidate pursuing training course are eligible to Teacher Eligibility Test.

Mr. Prasenjit Mukherjee learned counsel for the Commission submits that the eligibility criteria for the said test have been prescribed following the guideline of the NCTE.

Heard learned advocate for the parties, perused the materials-on-record.

The petitioners are pursuing their Bachelor of Education courses. They are aggrieved by their exclusion to participate in the ensuing Teacher Eligibility Test to be conducted by the Commission on the ground that they have not completed their Training qualifications.

The Commission is to follow the guidelines of the NCTE in prescribing the eligibility criteria of the candidates for the said Test.

The NCTE has framed the eligibility criteria for the said Test and has communicated the same to all Secretaries/Commissions of Education of the State Governments/Union Territories by its letter dated February 11, 2011 bearing no. 76-4/2010/NCTE/Acad being Annexure P-‘4’ to the writ petition.

The said guidelines prescribe inter alia, the following eligibility criteria of a candidate for the said Test:-

“...
 ii. A person who is pursuing any of the teacher education courses (recognized by the NCTE or the RCI, as the case may be) specified in the NCTE Notification dated 23rd August 2010.
”

Besides, it appears from the above referred Annexure P-‘6’ to the writ petition that the Hon’ble Supreme Court in Civil Appeal No. 5564 of 2019 (arising from SLP (C) No. 16698/2018) has observed as follows:

“**Para 8.3**..... as per dictionary meaning the word “pursuing” means undergoing and/or

proceeding further. Therefore, a candidate who has been admitted in any of the TTC and undergoing the teacher training course (TTC) can be said to be “pursuing” such teacher training course and shall be eligible to appear in the TET examination, irrespective of the fact that whether, by the last date specified for filling up the online form for TET examination, he has, in fact, appeared in the examination of the concerned teacher training course and the result the awaited. “Pursuing” the requisite teacher training course is sufficient to make such a candidate eligible to appear in the TET examination. Therefore, on a fair reading of Clause 5(ii) of the NCTE guidelines, a person who has been admitted in TTC and pursuing, he/she can appear in the TET examination.

Para 8.4.....Therefore, it is clear that the respective appellants herein whose appointments were challenged were eligible to appear in the TET examination at the time they were “pursuing” the concerned TTC. Thus, we hold that the decision of the High Court, to the aforesaid extent, is not sustainable. The impugned orders of the High Court are accordingly modified to the aforesaid extent.....”

The NCTE, following the aforementioned observations of the Hon’ble Supreme Court has clarified the issue declaring that a candidate who has been admitted in any of the TTC and undergoing the teacher training course (TTC) can be said to be “pursuing” such teacher training course and shall be eligible to appear in the TET examination.

In view of the discussion made above, the petitioners are entitled to appear in the ensuing Teacher Eligibility Test to be conducted by the Commission.

The Commission, therefore is directed to allow the petitioners either to upload their online applications or to submit offline applications in the ensuing Teacher Eligibility Test.

The certificate to be issued to the petitioners, in the event they are found eligible in the said Eligibility

Test, shall abide by the result of the present writ petition.

The matter requires further consideration upon exchange of affidavits by the parties.

The respondents are directed to affirm affidavit-in-opposition within four weeks from date, reply thereto, if any, be affirmed by the petitioners within two weeks thereafter.

Let the matter appear in the list **eight weeks** hence for hearing.

In view of the position as discussed above, the Commission may consider to issue a corrigendum to the notification for the ensuing Teacher Eligibility Test enabling the similarly situated candidates to take up the said Test.

Parties to act on the server copy of this order duly downloaded from the official website of this Court.

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

(Biswajit Basu, J.)