

I-21
16.06.2026
Court No. 652
Sayan

WPA 17394 of 2024

**Pratip Bera
Vs.
The State of West Bengal & Ors.**

Mr. Biswarup Biswas
Mr. Pradip Kumar Ghosh
Mr. Yudhisthir Maity

... for the petitioner

- 1.** The petitioner has filed the instant writ petition with prayer inter alia for being appointed as the primary school teacher under the respondent/District Primary School Council, Purba Medinipur.
- 2.** The relevant year of recruitment process referred to by the writ petitioner is of 2006. Before that in 2004, the petitioner has obtained primary teacher's training qualification from the West Bengal Board of Primary Education.
- 3.** According to the writ petitioner, in spite of being eligible in terms of educational and training qualifications and also having secured the marks above the minimum cut off marks, he ought to have been appointed as a primary teacher. However, the petitioner is aggrieved that the respondent authority has not taken any steps for his appointment even though he having been duly qualified. Hence, this writ petition has been filed for appropriate redress.

4. Mr. Biswas, learned advocate for the petitioner has straightaway taken the Court to an order of the Hon'ble Supreme Court passed in Civil Appeal No. 1071 of 2019 (arising out of SLP(C) No. 29518 of 2016) dated January 24, 2019, in which the Supreme Court has held as follows: -

"In order to do complete justice, inter se the parties, while not interfering with the impugned judgment/s passed by the High Court on a principle of law, we consider it appropriate to exercise our power under Article 142 of the Constitution of India to issue the following directions:

(1) The primary teachers who obtained their certificates from the institutes recognised by the State Government, will also be entitled to the weightage under Rule 9(2)(d) of the Recruitment Rules, 2001 so long as they have filed the legal proceedings in the High Court on or before 31st December, 2010. This would include such of the parties who are the original petitioners or interventionists in their individual names so long as the petitions or the applications for intervention have been filed on or before 31st December, 2010. We make it clear that this relief will be available to only such persons and no others."

5. On the basis of the Supreme Court order as above, Mr. Biswas has submitted that in terms of the said order, the writ petitioner is entitled to the weightage under Rule 9(2)(d) of the Recruitment Rules, 2001, since he has filed his first proceeding concerning the same recruitment process of 2006 before December 31, 2010. It is further submitted that since in spite of being covered by the said order of the Supreme Court, the respondent authority has failed to grant him appointment and

thereby violated the order of the Supreme Court in his case. The petitioner has sought for immediate appropriate relief in the present writ petition.

6. Mr. Biswas has further submitted with reference to the averments made by the respondent/District Primary School Council, Purba Medinipur in its affidavit-in-opposition, that while considering the question, whether the petitioner is covered by the direction of the Hon'ble Supreme Court dated January 24, 2019, the date of filing of the present writ petition by him would only be inconsequential and irrelevant. That a person who has applied for intervention before December 31, 2010, irrespective of him having filed further subsequent writ petitions or not, are said to be entitled for weightage under the Rules. It is submitted that the present petitioner earlier filed his earlier writ petition being No. WP 13292(W) of 2010, seeking intervention of the Court in the process of recruitment of 2006 for the first time. Therefore, according to the petitioner, he ought to have been considered by the respondent authority to be securely covered under the order of the Supreme Court for grant of weightage in case of appointment.
7. Mr. Biswas has also referred to the two orders of this Court in WPA 21274 of 2021 (along with other similar writ petitions, on the self-same subject matter). He refers to the order dated April 25, 2024 in the same to submit that the Court has categorically

held therein that cases may be there, where the eligible persons have been inadvertently excluded by the Commissioner of School Education from being selected, still there cannot be any divergence of view on the entitlement of any person to the order of the Supreme Court dated January 24, 2019.

8. He has further referred to the order of the Court dated May 21, 2024 therein in which the Court has recorded the submission of the Counsel for the Commissioner of School Education which is as follows: -

"4. Counsel for the Commissioner of School Education submits that after due verification, 45 candidates have been found to have been qualified for appointment. There are some discrepancies in the documents submitted by some of the 45 candidates. The same shall be looked into and as far as possible rectified mutually by the respondents and the concerned petitioner."

9. The Court has directed for issuance of letter of appointments to the selected 45 candidates giving effective date of appointment from the date of order of the Hon'ble Supreme Court as above and also allowing the respective candidates notional benefits.
10. Hence, the petitioner having claimed himself to be similarly circumstanced with the 45 persons selected and appointed by order of the Commissioner of School Education pursuant to the Court's order as above, has sought for similar treatment to be meted out to him by way of appointing him in the suitable post.

- 11.** None appears for the respondent in spite of service of several notices. Hence, the writ petition is taken up for hearing and order, in absence of the respondent authority.
- 12.** On perusal of the entire record and upon careful consideration of the submissions made by Mr. Biswas, it transpires that in the process of recruitment of 2006, the Courts have intervened from time to time. The Supreme Court by dint of its order dated January 24, 2019, directs that weightage under the Rule 9(2)(d) of the Recruitment Rules, 2001 should have been granted to the participants of the said recruitment process, who has sought intervention of the Court on or before December 31, 2010.
- 13.** Therefore, the Commissioner of School Education prepares a list of candidates for appointment that is, dated May 20, 2024. The petitioner's name does not find place therein.
- 14.** The petitioner's grievance is that, in spite of having filed a writ petition being No. WP 13292(W) of 2010 in the year 2010, which is within the cutoff date specified by the Hon'ble Supreme Court in its order dated January 24, 2019, the respondent authority has neither granted him due weightage as per direction of the Supreme Court nor has incorporated his name in the list of 45 selected candidates. The petitioner's contention is that, he complies with all the eligibility criteria including marks obtained and seeking intervention of

the Court in this regard within the time limit specified by the Supreme Court.

- 15.** On the contrary, the respondent authority has contended in its affidavit-in-opposition that the present writ petition of the petitioner is beyond the cutoff date as prescribed by the Supreme Court in its order. Hence, according to the respondent, his prayer is not to be considered.
- 16.** The contention of the respondent does not inspire confidence in the mind of the Court. That is, in view of the clear and unambiguous direction of the Supreme Court in its order dated January 24, 2019, that weightage should be granted to the original petitioners or interventionists so long as the petitions/applications for intervention have been filed on or before December 31, 2010. Record has categorically revealed that the petitioner's first writ petition is No. WP 13292(W) of 2010 which was filed in the year 2010, within the last date as prescribed by the Supreme Court. Therefore, the other essential requirements having been fulfilled in case of the present petitioner, he should have been granted weightage as per direction of the Supreme Court in the order as above. The contention of the respondent authority that the date of filing of the present writ petition is only the relevant factor, is thus unsustainable and discarded.
- 17.** Instead, the Court finds it appropriate to dispose of the present writ petition with

direction upon the respondent No. 2/the Commissioner of School Education, West Bengal to immediately take up the petitioner's prayer as it is in the instant writ petition and consider the same in the light of the order of the Supreme Court dated January 24, 2019 in Civil Appeal No. 1071 of 2019 (arising out of SLP(C) No. 29518 of 2016) and also the two orders of this Court in writ petition No. WPA 21274 of 2021 (along with other similar writ petitions on the self-same subject matter) as mentioned above. Needless is to mention that, in case the said respondent authority finds the writ petitioner to have complied with all eligibility and other conditions applicable, should issue appointment letter immediately thereafter. Or else, the said respondent shall pass a reasoned order. In the process, it shall afford reasonable opportunity of hearing to the present writ petition and conclude the entire process positively within a period of six (06) weeks from the date of communication of copy of this order.

- 18.** The present writ petition No. WPA 17394 of 2024 is disposed of with the directions as above.
- 19.** Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)