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21.11.2024
RBHAR
Court No. 8

**In The High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**FMA 1195 OF 2024
with
CAN 1 OF 2024
CAN 2 OF 2024
CAN 3 OF 2024**

**The State of West Bengal & Anr.
Versus
Mrinal Barik & Ors.**

&

**FMA 942 OF 2024
with
CAN 1 OF 2024**

**West Bengal Board of Primary Education
Versus
Mrinal Barik & Ors.**

**Mr. Anirban Ray, Ld. GP
Mr. Sirsanya Bandhopadhyaya
Mr. Piyush Agarwal, Advocate
Ms. Shrivalli Kajaria, Advocate
Mr. Debojyoti Das, Advocate**

**... for the Appellants
in FMA 1195 of 2024**

**Mr. Supriyo Chattopadhyay, Ld. AGP
Ms. Iti Dutta, Advocate**

**... for the State
in FMA 942 of 2024**

**Mr. Subir Sanyal, Advocate
Mr. Dwarika Nath Mukherjee, Advocate
Mr. Saikat Banerjee, Advocate
Mr. Ratul Biswas, Advocate
Mr. Kaushik Chowdhury, Advocate**

... for the WBBPE

**Mr. Sabyasachi Chatterjee, Advocate
Mr. Imtiaz Akhtar, Advocate
Ms. Indrani Roy, Advocate
Mr. Badrul Karim, Advocate**

... for the Respondent No. 1

1. The judgment rendered in case of ***National Legal Services Authority vs. Union of India & Ors.*** reported in ***(2014) 5 SCC 438*** is placed before us in order to substantiate the issue that the Transgender have been systematically deprived of their rights under Article 15(2) of the Constitution of India and, therefore, they are legally entitled to be treated as socially and educationally backward classes of the citizens and it is a paramount duty of the State Government to uplift their social status in order to eradicate any sense of discrimination on the ground of gender. The judgment of the Single Bench of the Madras High Court in the case of ***Rskshika Raj vs. State of Tamil Nadu, represented by the Chief Secretary and Ors.*** reported in ***2024 SCC OnLine Mad 1624*** was also cited, where the reservation on a horizontal basis to all the Transgender was directed to be implemented in public employments.
2. At this juncture, the learned Government Pleader submits that the Committee has been constituted by the Government to take a decision on whether any horizontal reservation can be provided to such Transgender. The said Committee was constituted as far back as in the year 2012, but the progress thereof has not been

shown. The Government cannot sit over the issues despite the mandate given by the Hon'ble Apex Court in ***National Legal Services Authority (supra)*** and, therefore, a timely decision is the need of the hour.

3. We, therefore, direct the Government Pleader to submit the report indicating the progress having being made by the said Committee on the next date.
4. Let this matter be listed on 28th November, 2024.

(HARISH TANDON, J)

(PRASENJIT BISWAS, J)