

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

IA 13/2013 in Petition(s) for Special Leave to Appeal (Civil)
No(s).15253/2006

(From the judgement and order dated 03/05/2006 in FMA No.294/2005 of The
HIGH COURT OF CALCUTTA)

W.B.O. PRIMARY TEACHERS' ASSN. & ORS. Petitioner(s)

VERSUS

CHAIRMAN, AD-HOC COMMITTEE, NORTH & ORS. Respondent(s)

(for directions and office report)
with
I.A. No. 16 in SLP (C) No. 14897 of 2008

Date: 09/05/2013 These IAs were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Petitioner(s)
IA 13 in SLP 15253

Mr. A.K. Ganguli, Sr. Adv.
Mr. Somnath Mukherjee, Adv.
Mr. Shrish Kumar Misra, Adv.

IA 16 in SLP 14897

Mr. Shanthi Bhushan, Sr. Adv
Mr. Siddiqui Rahman, Adv.
Mr. Soumik Ghosal, Adv.
Mr. N. Haque, Adv.
Mr. B.P. Yadav, Adv. for
Mrs Sarla Chandra, Adv.

For Respondent(s)

Mr. Jaideep Gupta, Sr Adv.
Mr. Kunal Chatterji, Adv.
Ms. Maitrayee Banerjee, Adv.

Mr. Deba Prasad Mukherjee, Adv.
Ms. Nandini Sen, Adv.

Mr. Gaurav Jain, Adv. for
Ms. Abha Jain, Adv

Ms. Debjani Das Purkayastha, Adv.
Mr. Avijit Bhattacharjee, Adv
Ms. Sarbani Kar, Adv.

Ms. Mridula Ray Bharadwaj, Adv

Mr. Abhishth Kumar, Adv

Mr. Sunil Kumar Verma, Adv

Mr. Somnath Mukherjee, Adv.

Mr. Ranjan Mukherjee, Adv.

Mr. Pujush K. Roy, Adv.
Mrs. Kakali Roy, Adv. for
Mr. Mithilesh Kumar Singh, Adv.

Mr. Ramshwar Prasad Goyal, Adv.

Mr. Devvrat, Adv.

UPON hearing counsel the Court made the following

O R D E R

We have heard Mr. Shanti Bhushan, learned senior counsel for the applicants in I.A. No. 16, Mr. A.K. Ganguli, learned senior counsel for the applicants in I.A. No. 13 and Mr. Jaideep Gupta, learned senior counsel for the West Bengal Board of Primary Education (for short "the Board").

2. This order shall apply to 1257 members of the West Bengal Organizer Primary Teachers' Association (for short "the Association") who were the writ petitioners before the High Court in the Writ Petition.

3. On 2.2.2011, this Court disposed of the Special Leave Petitions filed by the Association and others. Inter alia, in that order, this Court observed as follows:

"Having regard to the fact that this litigation is going on for the past over 25 years and further having regard to the fact that during this period the West Bengal Primary School Teachers Recruitment Rules were framed in the year 2001 and were subjected to amendments in May and July 2009, by which the upper age limit of 40 years is prescribed for appointment as Primary School Teachers, we deem it just and proper to direct that in case of the 1257 members of the West Bengal Organizer Primary Teachers Association (petitioner No.1 in SLP (C) No. 15253/2006) and in case of all those persons who were parties before the High Court in Writ Petition No. 15632(W) of 1998, the upper age limit shall be reckoned with reference to September 14, 1995 (the date on which this Court passed orders in SLP (C) No 3594/1995 from which the claim of the petitioners emanate). In other words, in case the 1257 members of the petitioner Association and those persons who were parties before the High Court in the aforementioned writ petition satisfy the age criterion as on September 14, 1995, their applications shall be duly considered in terms of the other eligibility criteria prescribed under the Rules as they stand on date."

4. The above order has not been complied with in its letter and spirit necessitating diverse applications being filed by the parties.

5. By these applications, it is prayed that the respondents may be directed to take urgent steps for appointment of applicants as Primary School Teachers as per West Bengal Primary School Teachers Recruitment Rules, 2001 (for short "2001 Rules") as amended by Notification dated 19.5.2009 and the order dated 2.2.2011 passed by this Court.

6. Mr. Jaideep Gupta, learned senior counsel for the Board, however, submitted that on coming into force of the Right of Children to Free and Compulsory Education Act, 2009 (for short "RTE Act") that prescribes the eligibility of appointment of Primary School Teachers, concerned 1257 members of the Association were not eligible.

7. We find that the Central Government in exercise of its power under sub-section (2) of Section 23 of the RTE Act has granted relaxation to the State Government of West Bengal in respect of the minimum teacher qualification norms notified by the National Council for Teacher Education (NCTE) on 25th August, 2010 under RTE Act insofar as they refer to classes I-VIII, as under:

(a) 2-year Diploma in Elementary Education (by whatever name

known) for appointment of a teacher in classes I-V; and
b) 1-year Bachelors in Education (B.Ed.) for appointment of a teacher in classes VI to VIII.

8. In light of the above relaxation, in our considered view, the Board has to consider the eligibility of 1257 members of the Association who were writ petitioners before the High Court in the manner already indicated in the order dated 02.02.2011 passed by this Court.

9. We find from the available material that the School Education Department of the Government of West Bengal has undertaken to direct the Board by making application forms available at every District Primary School Council office and publish fresh advertisement in two widely circulated newspapers in the State. The School Education Department has also undertaken to direct the Board to extend the date of submission of application forms so that no candidate covered by the order of this Court dated 02.02.2011 is inconvenienced.

10. Having regard to the above undertaking, the order passed by this Court on 2.2.2011 and the Notification dated 1.6.2011 issued by the Central Government under sub-section (2) of Section 23 of the RTE Act, we direct the Board as under:

- i) The Board shall publish fresh advertisement calling upon applications from the concerned candidates as early as possible and in no case later than by 25.5.2013;
- ii) The Board shall make application forms available at every District Primary school Council office;
- iii) The eligibility of the 1257 candidates, who were the writ petitioners before the High Court and in respect of those the order dated 2.2.2011 came to be passed, shall be seen in accord with 2001 Rules for appointment as Primary School Teachers as modified by Notification No. 268.-SE(P)/10M-06/2009 dated 19.5.2009, Notification dated 25rd August, 2010 issued by the National Council for Teacher Education under RTE Act and the Notification dated 1.6.2011 whereby the minimum teacher qualification norms notified by the NCTE in Notification dated 25th August, 2010 have been relaxed.

11. The entire exercise of selection process pursuant to the advertisement, which is to be issued by the Board before 25.5.2013, shall be completed by July 15, 2013.

12. I.A. Nos. 13 of 2013 in SLP (C) No. 15253 of 2006 and I.A. No. 16 of 2013 in SLP (C) No. 14897 of 2008 stand disposed of.

|(Pardeep Kumar)
|Court Master

|(Renu Diwan)
|Court Master

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