

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)

(With appln(s) for substituted service, impleadment, permission to file addl. affidavit, prayer for interim relief)

WITH

SLP(C) NO. 14897 of 2008

(With appln. for c/delay in filing the SLP, directions, impleadment, permission to file addl. documents, prayer for interim relief and office report)

Date: 02/02/2011 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM  
HON'BLE MR. JUSTICE R.M. LODHA

For Petitioner(s)

SC 15253 Mr. Somnath Mukherjee, Adv.

SC 14897 Mr. Shanti Bhushan, Sr. Adv.  
Mr. Hiren Dasan, Adv.  
Mr. Dharendra Kr. Mishra, Adv.  
Mr. Wayeemul Haque, Adv.  
Mrs. Sarla Chandra, Adv. (NP)

For Respondent(s)

SC 14897 Mr. D.P. Mukherjee, Adv.  
Mr. Sanjay Kr. Ghosh, Adv.  
Ms. Nandini Sen, Adv.  
for respondent No.1

Mr. Somnath Mukherjee, Adv.  
for respondent Nos. 2 to 4.

Mr. Pijush K. Roy, Adv.  
for Mr. Mithilesh Kr. Singh, Adv. (NP)  
for respondent No.20.

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Proposed  
Intervenors

Mr. Abhishth Kumar, Adv.  
Mr. A.K. Yadav, Adv.

SC 15253

Mr. Bhaskar P. Gupta, Sr. Adv.  
Mr. Tara Chandra Sharma, Adv.  
Ms. Neelam Sharma, Adv.  
for respondent Nos. 2 and 3  
and for respodnent Nos. 5 & 6 in SC 14897/2008.

Ms. Abha Jain, Adv.

Ms. Mridula Ray Bharadwaj, Adv.

Mr. Sunil Kumar Verma, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Delay of 617 days in filing Special Leave Petition  
(Civil) No. 14897/2008 is condoned.

SLP (C) No. 15253/2006  
SLP (C) No. 14897/2008

In course of hearing of these two special leave petitions, Mr. Bhaskar P. Gupta, senior advocate appearing for respondent Nos. 2 and 3 in SLP (C) No. 15253/2006 and for respondent Nos. 5 and 6 in SLP (C) No. 14897/2008, stated that in case the members of the petitioner Association and the petitioners in the other SLP make applications in response to any current advertisements or advertisements that may be issued in future under Rule 8 of the West Bengal Primary School Teachers Recruitment Rules, 2001 for appointment as Primary School Teachers, their applications will be considered, along with all other eligible candidates, in accordance with the provisions of the aforesaid Rules.

The offer made by Mr. Gupta is not of much help to the petitioners because by an amendment introduced in the

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Rules, an age limit is prescribed and all the petitioners have by now become overage. They are, for that reason, no longer eligible to apply for appointment as Primary School Teachers.

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.

In case any applicant claims relaxation of age on the basis of this order, it will be open to the concerned authorities to satisfy themselves as to whether the concerned applicant was a party before the High Court in the aforementioned writ petition with reference to the application of impleadment made before the High Court on

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which orders were passed on October 31, 2003. It is further made clear that if a formal order of impleadment was not made in case of anyone for non-payment of court fee, as directed by the High Court, that shall not be taken into account to reject his/her claim for relaxation of age.

The special leave petitions are disposed of with the aforesaid observations and directions.

All pending applications for impleadment are rejected.

(N.S.K. Kamesh)  
Court Master

(S.S.R. Krishna)  
Court Master