

Mr. Shibashish Misra, Adv.

WP 3/2014 Mr. Joydeep Mazumdar, Adv.
Mr. Rohit Dutta, Adv.
Mr. Shibashish Misra, Adv.
Mr. Amitabrato Roy, Adv.

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For Respondent(s)

Mr. Parijat Sinha, Adv.
Ms. Reshmi Rea Sinha, Adv.
Mr. S.C. Ghosh, Adv.

Mr. Abhijit Sengupta, Adv.

Mr. Arjun Harkauli, Adv.

Mr. Kalyan Bandhopadhyay, Sr. Adv.
Mr. Soumitra G. Chaudhuri, Adv.
Mr. Anip Sachthey, Adv.

Ms. Asha G. Nair, Adv.
Mr. Gaurav Sharma, Adv.
Mr. Yasir Rouf, Adv.
Ms. Sushma Suri, Adv.

Mr. Avijit Bhattacharjee, Adv.

WP 30/2013 Mr. Abhishek Atrey, Adv.
Mr. Ashutosh Sharma, Adv.
Ms. Babita Tyagi, Adv.

Ms. C.K. Sucharita, Adv.

For West Bengal Board of Primary Education Mr. Kunal Chatterjee, Adv.
Ms. Maitrayee Banerjee, Adv.

WP 39/2013 Mr. Bhagwati Prasad, Sr. Adv.
Mr. Balraj Dewan, Adv.
Mr. R.C. Tiwari, Adv.
Mr. Rajeev Kumar Gupta, Adv.

I.A. No.3/14 in Mr. Dushyant Parashar, Adv.
WP 39/2013 Mr. Balraj Dewan, Adv.
For Intervenor Mr. R.C. Tiwari, Adv.
Mr. Rajiv Kumar Gupta, Adv.

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

During the course of hearing of Writ Petition(C) No. 94 of 2012, it has been pointed out that number of

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other writ petitions have also been filed, in which notice has not yet been issued.

In view of the above, issue notice in all the other writ petitions, returnable within four weeks. Mr. Anip Sachthey, learned counsel appearing for the State of West Bengal and Mr. Kunal Chatterjee, learned counsel appearing for the Board accept notice. Let the counter affidavit be filed within four weeks. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

It has also been brought to our notice that Writ Petition(C) No.1019 of 2013 is pending in the Calcutta High Court. In the aforesaid writ petition, an interim order had been made on 7th November, 2013, in which certain interim directions have been issued. Ultimately, it has been directed as under :-

"The respondent No. 8 is, therefore, directed to make arrangements for identification of the names of the selected candidates possessing minimum qualifications specified in NCTE's Notification dated August 25, 2010 in the merit list. The respondent No. 8 is further directed to recommend first the names of those selected candidates from the merit/select list who possess minimum qualifications as prescribed in NCTE's Notification dated August 25, 2010 and only thereafter to recommend the names of candidates who do not possess the minimum qualifications in terms of the above Notification dated August 25, 2010, if the vacancies remain. Leave is

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granted to the concerned authorities to issue letters of appointment to the selected candidates on the basis of the above recommendations without prejudice to the rights and contentions of the parties to this proceeding."

A perusal of the same would show that the State of West Bengal had been directed to make arrangements for identification of names of the selected candidates possessing minimum qualifications specified in the Notification issued by the NCTE on 25th August, 2010, in the merit list. It has been further directed that SSC (Respondent No.8 therein) will firstly recommend the name of those selected candidates from merit list who possess the minimum qualification as prescribed in the Notification dated 25th August, 2010.

After exhausting the aforesaid list, names of the candidates who do not possess the minimum qualification can be sent for filling up the remaining vacancies. Learned counsel for the petitioners have submitted that the State of West Bengal has made appointments on 17000 posts during the pendency of the aforesaid writ petition. According to Mr. R.F. Nariman, learned senior counsel appearing in Writ Petition(C) No. 51 of 2014, out of those 17000, only 170 candidates have been appointed who are qualified and trained. He further submits that all the other candidates appointed are untrained even under the

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relaxed norms, as provided under Notification dated 1.6.2011. This position is vehemently denied and controverted by Mr. Bandhopadhyay, learned senior counsel appearing for the State of West Bengal and Mr. Kunal Chatterjee, learned counsel appearing for the Board. It is submitted that to the best of their knowledge, almost 4500 candidates that have been appointed are fully qualified and trained. It is only when such candidates were not available, the candidates from the second category have been appointed.

Mr. Bhagwati Prasad, learned senior counsel has brought to our notice that even in the process of fresh recruitment the petitioners apprehend that they will be denied appointments again.

Keeping in view the aforesaid, we direct the State of West Bengal as well as the Board to file a comprehensive affidavit setting out as to :-

1. How many teachers with requisite qualification are available for appointment?
2. How many of them are trained and how many of them are untrained as per Rules?
3. How many posts are available?
4. In the test also, how many trained and qualified teachers passed; and how many qualified and untrained teachers have passed; and how many unqualified and untrained candidates passed?

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Let the affidavit be filed within four weeks.

The intervention application No. 3 of 2014 in Writ Petition(C) No. 39 of 2013 is allowed. Let the response be filed to the said application within four weeks.

List the matters on 23rd April, 2014.

(Sukhbir Paul Kaur)
Court Master

(Indu Bala Kapur)
Court Master