

13. 06. 2022

BP
Sl. 2
Court No. 17

WPA 7907 of 2019

Ramesh Malik & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharya, Sr. Advocate
Mr. Sudipta Dasgupta
Mr. Bikram Banerjee
Mr. Arkadeb Biswas
Mr. Arka Nandi
Ms. Dipa Acharya
Mr. Sutirtha Nayek
..for the petitioners.

Mr. L.K. Gupta, Sr. Advocate
Mr. Ratul Biswas
..for the Board.

Mr. Sirsanya Bandyopadhyay
Mr. Arka Kumar Nag
..for the State.

1. The petitioners have alleged that some persons – names and other particulars of whom have been given in the writ application and in the supplementary affidavit affirmed on 9th June, 2022 filed today before this court - have been given appointment though they have not qualified in TET, 2014. For getting a service in a primary school as a teacher a candidate must have passed in Teacher Eligibility Test (TET in short). The petitioners have further alleged that 23 lacs candidates appeared in TET, 2014 and one panel was published for giving appointment of more or less 42,000

candidates as primary teachers. The petitioners have expressed serious suspicion about the legality and correctness of publication of such panel.

2. By filing the supplementary affidavit as aforesaid it has been submitted that though the panel was published in 2016 a further panel named - additional panel - was published on 04.12.2017 and the document annexed in the supplementary affidavit is only in respect of the said additional panel District Hooghly wherein not only one candidate Supriyo Sarkar who was not a qualified candidate in TET was named in the second panel and got appointment but also other candidates totaling to 68 candidates in the district of Hooghly have been given appointment by publishing the second panel or the additional panel.

3. In reply to a question asked by this court, learned advocate for the West Bengal Board of Primary Education ('the Board', for short) has submitted that though there is no provision in the relevant law for publishing another panel but if situation arises and if it is found necessary by the Board, it can publish a second panel and such necessity was felt because of demand of large number of candidates demonstrating before the Board's office and the Board decided to send the question and answers of TET, 2014 to some expert and the expert found that one question and its answer in TET, 2014 was wrong. Therefore, the Board decided to give one mark to the agitating candidates who filed applications for reconsideration of their marks in TET

2014 with their testimonials including their training qualifications. This submission of training qualification is also a doubtful question keeping in mind the other TET qualified candidates.

It is an admitted position that there was no public announcement either in the website of the Board or in any newspaper that such application with testimonials can be made to the Board and the Board would consider such testimonials.

4. Therefore, I find that in the first place there was no provision in the relevant law for publication of a second panel and secondly the entire procedure for accepting the testimonials of the persons who filed their applications before the Board for reconsideration of their TET, 2014 examination paper, is wholly illegal and a surreptitious and clandestine exercise by the Board as there was no public announcement for other similarly situated candidates. There is no reply on the part of the Board as to why other similarly situated candidates were discriminated against in filing similar applications?

5. Learned advocate for the Board has submitted that after receiving such applications from the agitating candidates only 269 candidates out of 23 lacs candidates found eligible for getting one mark each in TET, 2014 and such mark was given to them and thus they qualified and were given appointment. As the exercise of giving appointment in such a manner as aforesaid which is wholly illegal for want of any public

notice wherefor other similarly situated candidates could not file similar applications and the second panel published in respect of every district (may be by similar letter bearing memo no. 2884(40)/BPE/2017 dated 04.12.2017) is declared as wholly illegal and void ab initio for want of any such provisions of publishing a second panel these 269 candidates who have been given appointment through the said illegal and void second panel are to be immediately terminated by the Board by issuing letters intimating that they shall cease to be teachers of primary schools with immediate effect and the concerned District Inspector of Schools (Primary Education) shall not pay any salary to them from tomorrow onwards. Those 269 candidates shall not be allowed to enter into their respective school premises from tomorrow and shall not interfere in any manner whatsoever in running of the primary school concerned. The salary they have received in the meantime is to be refunded by them but for that separate order will be passed at a subsequent stage.

6. Learned advocate for the petitioners has raised a point that because of such illegalities and other irregularities of the Board they have no faith upon the West Bengal Board of Primary Education and they have prayed that the result of the TET, 2014 was sent to National Informatics Center ('NIC', for short) by the Board is to be kept in fully secured manner and it shall not be interfered or tampered with or altered in any manner whatsoever.

I hold that if such prayer is allowed none of the parties will be adversely affected and accordingly such prayer is allowed and NIC is directed to keep the database as referred above untouched and fully secured.

I direct the petitioner to add NIC as a party respondent in this proceeding in course of the day and to communicate this order to them.

7. Though the police force of this city and of this State is competent enough to investigate such corruption and though I am satisfied about their capability I cannot give the responsibility of investigation of this corruption, prima facie case of which has been established, upon Kolkata Police or State Police as because they are controlled by some politically and otherwise influential persons and it is impossible for them to investigate the corruption in this matter in a fair and unbiased manner. This police force is under a department of the State government and as they do not have any free hand in the investigation of the corruption but their hands are tied by politically influenced persons of this State. I have to give the responsibility of investigation and interrogation of the related persons to such corrupt appointments to some other investigating agency and I decide to give this responsibility to Central Bureau of Investigation. Here the President of the West Bengal Board of Primary Education is an elected member of West Bengal Legislative Assembly who has returned from his constituency as a candidate of the political party which is the ruling party of this State.

8. In view of the illegality committed in respect of the second panel (termed as Additional Panel, by the Secretary of the Board), which is wholly illegal and giving illegal appointment to 269 candidates by a queer method unknown to law, I direct the Central Bureau of Investigation ('CBI', for short) to start investigation by registering a case immediately against the Board and start interrogating the President of the West Bengal Board of Primary Education, Dr. Manik Bhattacharya, and the Secretary of the said Board Dr. Ratna Chakraborty Bagchi, which shall start today itself. I direct the petitioners to add Dr. Manik Bhattacharya, the President of the West Bengal Board of Primary Education and Dr. Ratna Chakraborty Bagchi, the Secretary of the said Board as party respondents and they are to go to the CBI office at Nizam Palace by 5:30 p.m. today to face interrogation.

9. It is made clear that if they do not co-operate with CBI, CBI shall have every liberty to interrogate them after taking them into custody.

10. CBI shall contact NIC immediately to seize the database of the TET, 2014 candidates published by the West Bengal Board of Primary Education by tomorrow (14.06.2022) and to submit a short report in this court about the registration of the case, initiation of the interrogation of the two persons added today in this

proceeding (named above) and taking into custody of the database of the TET, 2014 candidates day after tomorrow at 2 p.m.

11. If CBI feels that in respect of this matter an independent case is not required to be registered apart from the other case involving the Board which has already been registered, as has been told by the petitioners, CBI need not register a new case.

12. I grant liberty to the petitioners to communicate this order immediately to the Joint Director of CBI having his office at Kolkata by email, over telephone and other modes of communication and I direct the learned advocate for the Board to communicate the President of the Board and the Secretary of the Board to present themselves before CBI by 5:30 p.m. today.

The matter is adjourned till 15th June, 2022 when it will be taken up at 2 p.m.

(Abhijit Gangopadhyay, J.)

