

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.1071 OF 2019
(Arising out of SLP(C) No.29518 of 2016)

AMINA KHATUN & ORS.

....APPELLANT(S)

VERSUS

BIRBHUM DISTRICT PRIMARY SCHOOL
COUNCIL & ORS.

....RESPONDENT(S)

WITH

C.A. No.1086/2019 @ SLP(C) No. 3528/2017
C.A. No.1085/2019 @ SLP(C) No.3531/2017
C.A. No.1087/2019 @ SLP(C) No.7733/2017
C.A. NO.1088/2019 @ SLP(C) No.12106/2017
C.A. No.1089/2019 @ SLP(C) No.22690/2018
C.A. No.1092/2019 @ SLP(C) No.D28077/2016
C.A. No.1090/2019 @ SLP(C) No.26107/2018
C.A. No.1075/2019 @ SLP(C) No.34242/2016
C.A. Nos.1072-1074/2019 @ SLP(C) Nos.33868-33870/2016
C.A. Nos.1076-1084/2019 @ SLP(C) Nos.36875-36883/2016
C.A. No.1091/2019 @ SLP(C) No.D2577/2018

O R D E R

Permission to file special leave petition is granted.

Delay condoned.

Leave granted.

A process for recruitment of primary school teachers begun by the District Primary School Council of the State of West Bengal in the year 2006 culminated in the year 2010. The bone of contention which arises in the present proceedings is as to whether the appellants before us are entitled to benefit of appropriate additional marks in

terms of Rule 9(2)(d) of the West Bengal Primary Teachers Recruitment Rules, 2001 (for short, the "Recruitment Rules, 2001"). These appellants and similar situated persons obtained their primary teacher training certificates from institutes recognised by the State Government but not by the National Council of Teacher Education (for short, the "NCTE"). In terms of the impugned judgment/s, such persons have been held to be ineligible on account of there being an apparent conflict between the Central Law and the State Law.

We have heard learned counsel for the parties at length and perused the record. We are unable to persuade ourselves to interfere with the impugned judgment/s of the Division Bench of the High Court on a principle of law.

We are, however, conscious of the fact that the teachers who obtained the certificates from the institutes recognised by the State Government are not to blame. They have been part of the recruitment process which began in the year 2006 and carried on for four years. Not only that, some of these persons immediately approached the Court in the years 2009 and 2010 to assail the denial of weightage to be given to them for having obtained the certificates and even though they succeeded in those proceedings, a second round of proceedings have been initiated on account of certain subsequent developments.

In order to do complete justice *inter se* the parties, while not interfering with the impugned judgment/s passed

by the High Court on a principle of law, we consider it appropriate to exercise our power under Article 142 of the Constitution of India to issue the following directions:

(1) The primary teachers who obtained their certificates from the institutes recognised by the State Government, will also be entitled to the weightage under Rule 9(2)(d) of the Recruitment Rules, 2001 so long as they have filed the legal proceedings in the High Court on or before 31st December, 2010. This would include such of the parties who are the original petitioners or interventionists in their individual names so long as the petitions or the applications for intervention have been filed on or before 31st December, 2010. We make it clear that this relief will be available to only such persons and no others.

(2) On the basis of the aforesaid additional marks, the selection process undertaken in the year 2009-10 in pursuance to what was begun in the year 2006, will be revisited and a panel for appointment of primary teachers will be again made. Such of the beneficiaries by this order which figure in the merit list keeping in mind the posts advertised and filled up would get the benefit of appointment with all benefits flowing prospectively only.

(3) The aforesaid exercise will however not disturb the persons in any manner who have already been appointed and the preparation of the list is only to determine such of the beneficiaries who would have been benefited if the additional marks have been granted to them.

(4) The entire exercise shall be completed and letters of appointment be issued within a maximum period of three months from today.

Order accordingly.

We clarify that if necessary supernumerary posts be created and adjusted against the future vacancies by the respondents.

At the request of learned counsel appearing for the petitioners, it is clarified that needless to say that eligibility would be determined as on the date when the original selection was made.

Subject to the aforesaid directions, these appeals are disposed of.

No orders are necessary to be passed in the applications for intervention and impleadment.

.....J
[SANJAY KISHAN KAUL]

.....J
[DEEPAK GUPTA]

NEW DELHI;
JANUARY 24, 2019.

ITEM NO.2

COURT NO.14

SECTION XVI

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

Petition(s) for Special Leave to Appeal (C) No(s).29518/2016

(Arising out of impugned final judgment and order dated 22-07-2016
in MAT No.768/2016 passed by the High Court At Calcutta)

AMINA KHATUN & ORS.

Petitioner(s)

VERSUS

BIRBHUM DISTRICT PRIMARY SCHOOL COUNCIL & ORS. Respondent(s)

(WITH APPLN.(S) FOR INTERVENTIONS AND FOR IMPLEADMENT)

WITH SLP(C) No. 3528/2017 (XVI)

SLP(C) No. 3531/2017 (XVI)

SLP(C) No. 7733/2017 (XVI)

SLP(C) No. 12106/2017 (XVI) (WITH APPLN.(S) FOR INTERVENTION)

SLP(C) No. 22690/2018 (XVI)

SLP(C) No.D28077/2016 (XVI)

(WITH APPLN.(S) FOR PERMISSION TO FILE SLP AND FOR EXEMPTION FROM
FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 26107/2018 (XVI)

SLP(C) No. 34242/2016 (XVI) (WITH APPLN.(S) FOR INTERVENTION)

SLP(C) Nos.33868-33870/2016 (XVI) (WITH APPLN.(S) FOR IMPLEADMENT)

SLP(C) Nos.36875-36883/2016 (XVI)

SLP(C) No.D2577/2018 (XVI)

(WITH APPLN.(S) FOR CONDONATION OF DELAY IN FILING SLP)

Date : 24-01-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) Mr. Paras Kuhad, Sr. Adv.
Mr. Joydeep Mazumdar, Adv.
Mr. Amitrabrata Roy, Adv.
Mr. Rohit Dutta, Adv.
Mr. Jitin Chaturvedi, Adv.
Ms. Priyata Chakraborty, Adv.
Mr. Abhradip Maity, Adv.
Mr. Shoaib Hussain, Adv.
Mr. Shibashish Misra, AOR

Mr. Joydeep Mazumdar, Adv.
Mr. Amitabrata Roy, Adv.
Mr. Rohit Dutta, Adv.
Ms. Priyata Chakraborty, Adv.

Mr. Abhradip Maity, Adv.
Mr. Shibashish Misra, AOR

Mr. Gaurav Agarwal, Adv.
Ms. Rashmi Singhania, Adv.
Mr. Sarad Kumar Singhania, AOR

Mr. Mithilesh Kumar Singh, AOR
Ms. Manju Singh, Adv.
Mr. Jaigop Bangaru, Adv.

Mr. Subhasish Bhowmick, AOR
Ms. Goldy Goyal, Adv.
Mr. A.K. Mishra, Adv.
Ms. Meera K. Patel, Adv.

Mr. Bikas Ranjan Bhattacharya, Sr. Adv.
Mr. Rauf Rahim, AOR
Mr. Bikram Banerjee, Adv.
Ms. Manisha Pandey, Adv.
Mr. Sudipto Das Gupta, Adv.

Mr. K. L. Janjani, AOR
Mr. Pankaj Kumar Singh, Adv.

For Respondent(s)/
Applicant(s)

Mr. V. Giri, Sr. Adv.
Ms. Madhumita Bhattacharjee, AOR
Mr. Vidur Kamra, Adv.
Mr. Amith Krishnan, Adv.

M/s PLR Chambers And Co., AOR*

Ms. Shalini Kaul, AOR

Mr. Niraj Jha, Adv.
Ms. Pratima Singh, Adv.
Mr. Nikilesh Ramachandran, AOR

Mr. Jaideep Gupta, Sr. Adv.
Mr. Kunal Chatterji, AOR
Ms. Maitrayee Banerjee, Adv.
Mr. Saurav Gupta, Adv.
Mr. Rudra Jyoti Nath Roy, Adv.

Mr. Praveen Chaturvedi, AOR
Ms. Jyoti Chaturvedi, Adv.

Mr. Hiren Dasan, AOR
Mr. Uday Gupta, Adv.
Mr. Harish Dasan, Adv.
Mr. Chand Qureshi, Adv.

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

Permission to file special leave petition is granted.

Delay condoned.

Leave granted.

These appeals are disposed of in terms of the signed order. No orders are necessary to be passed in the applications for intervention and impleadment.

Pending interlocutory applications, if any, stand disposed of.

(SANJAY KUMAR-II)
COURT MASTER (SH)

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR

(Signed Order is placed on the file)

**Appearance slip not submitted by the counsel*