

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4772 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 3775 OF 2018]

NABA PARJAY WEST BENGAL PRIMARY
ORGANIZER TEACHERS' ASSOCIATION APPELLANT (s)

VERSUS

THE STATE OF WEST BENGAL AND ORS RESPONDENT (S)

WITH

CIVIL APPEAL NO. 4773 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 5401 OF 2018]

WITH

CIVIL APPEAL NO. 4774 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 5485 OF 2018]

WITH

CIVIL APPEAL NO. 4775 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 6715 OF 2018]

WITH

CIVIL APPEAL NO. 4776 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 11718 OF 2018]
[DIARY NO.9802 OF 2018]

WITH

CIVIL APPEAL NO. 4777 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 11732 OF 2018]
[DIARY NO. 9979 OF 2018]

WITH

CIVIL APPEAL NO. 4778 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 11738 OF 2018]
[DIARY NO. 9988 OF 2018]

J U D G M E N T

KURIAN, J.

1. Delay condoned. Leave granted.

2. The issue raised in these appeals pertains to the claim for appointment as Primary Teachers. The basis of the claim is that they had worked as Organising Teachers some time in the past. The learned counsel appearing for the West Bengal Board of Primary Education and the State submit that in the case of many of the claimants, except that they belong to some organisation, no particulars whatsoever have been furnished regarding their past service as Organising Teachers. That apart, no information even regarding their address, age, educational qualification, school etc. have been furnished.

3. Though this Court had passed several orders, we need to refer to only three orders, namely, orders dated 16.04.2015, 28.01.2016 and 06.10.2016.

4. The order dated 16.04.2015 reads as follows :-

"The applicants shall give the following details along with an affidavit, with regard to the organizer teachers who claim right to be appointed as primary teachers

in pursuance of order passed by this Court dated 2nd February, 2011, in SLP(C)No.15253 of 2006 and connected matter.

1. The name and address of the organizer teacher and the date on which he became the member of the Association concerned before the High Court.

2. Number of the petition wherein association was the petitioner.

3. Date of birth of the teacher concerned.

4. The school in which he worked as an organizer teacher and the period of work.

5. The evidence to show that the said teacher had become member of the Association before the petition was filed in the High Court.

The afore-stated details shall be furnished by the learned counsel for the applicant to the learned counsel appearing for the State of West Bengal Board of Primary Education within two weeks from today.

The information provided by the learned counsel for the applicant shall be verified by Respondent-Board and they shall file its response within two weeks thereafter.

List the matters on 12th May, 2015, at 3.00 p.m. as Part-heard."

5. The order dated 28.01.2016 reads as follows :-

"The case has peculiar facts and circumstances.

In pursuance of order dated 2nd December, 2015, the Verification Committee has verified the details with regard to 1257 Organizing Teachers and has come to its final conclusion that out of 1257, 203 Organizing Teachers, who were parties in the petitions filed before the Calcutta High Court, are below the age of 60 years as on today and they are also qualified to become teachers as per Rules which were in force as on 14th September, 1995. Names of those 203 Organizing Teachers have been given in the list at Annexure R-6 to the Report of the Verification Committee constituted in terms of the order dated 2nd December, 2015. The Report has been handed over to us in Court today, which is taken on record.

The said Organizing Teachers shall submit relevant documents concerning their age and their qualification, to the Verification Committee within four weeks from today and after verification thereof in presence of the concerned Organizing Teachers, the Verification Committee shall come to a final conclusion with regard to veracity of the certificates and thereafter shall recommend the names of the qualifying Organized Teachers to the State within four weeks thereafter. Upon receipt of the said list, the State shall give appointment to the persons recommended by the Verification Committee within four weeks from the date of receipt of the list.

It has been submitted by the learned counsel appearing for some of the Organizing Teachers, who are not within the list of afore-stated 203 persons, that they are also eligible for appointment but because of some mistake their names have not been included in the list.

If it is so, it would be open to them to approach the Verification Committee on or before 29th February, 2016, so as to show that they are duly qualified as other Organizing Teachers as per Rules in force as on 14th September, 1995 and they are below the age of 60 years as on today. We are sure that as and when such an application is made, the Verification Committee will look into their grievance and take appropriate action as soon as possible, preferably within six weeks thereafter.

So far as other 5616 Organizing Teachers (as per the list furnished by Mr. Amarjit Singh Bedi, the learned counsel), who claim to be parties before the High Court in Writ Petition No.15632 of 1998, are concerned, it has been submitted that all relevant details with regard to their qualification and age, details of which are to be examined by the Verification Committee, have already been given to the learned counsel appearing for the respondent-State. The verification details shall be put in a

tabular form, as per order dated 2nd December, 2015.

The afore-said material shall be placed before this Court within eight weeks from today.

List these matters on 7th April, 2016, at 2.00 p.m."

6. The order dated 06.10.2016 reads as follows :-

"We have heard the learned counsel for the parties at length. Upon hearing the concerned counsel and upon perusal of the relevant record and the orders passed by this Court from time to time, we had passed the following order on 28th January, 2016 :

"In pursuance of order dated 2nd December, 2015, the Verification Committee has verified the details with regard to 1257 Organizing Teachers and has come to its final conclusion that out of 1257, 203 Organizing Teachers, who were parties in the petitions filed before the Calcutta High Court, are below the age of 60 years as on today and they are also qualified to become teachers as per Rules which were in force as on 14th September, 1995. Names of those 203 Organizing Teachers have been given in the list at Annexure R-6 to the Report of

the Verification Committee constituted in terms of the order dated 2nd December, 2015. The Report has been handed over to us in Court today, which is taken on record.

The said Organizing Teachers shall submit relevant documents concerning their age and their qualification, to the Verification Committee within four weeks from today and after verification thereof in presence of the concerned Organizing Teachers, the Verification Committee shall come to a final conclusion with regard to veracity of the certificates and thereafter shall recommend the names of the qualifying Organized Teachers to the State within four weeks thereafter. Upon receipt of the said list, the State shall give appointment to the persons recommended by the Verification Committee within four weeks from the date of receipt of the list."

We direct that the 173 candidates, as referred to in our order dated 28.1.2016 passed in I.A.Nos.2 & 3 of 2015 in I.A.No.13/2013 in SLP(C) No.15253/2006, shall be appointed as Primary Teachers with effect from 1.10.2016 and their appointment

letters shall be given to them before 31st October, 2016.

In our order dated 28.1.2016, we had observed that:

"It has been submitted by the learned counsel appearing for some of the Organizing Teachers, who are not within the list of afore-stated 203 persons, that they are also eligible for appointment but because of some mistake their names have not been included in the list.

If it is so, it would be open to them to approach the Verification Committee on or before 29th February, 2016, so as to show that they are duly qualified as other Organizing Teachers as per Rules in force as on 14th September, 1995 and they are below the age of 60 years as on today. We are sure that as and when such an application is made, the Verification Committee will look into their grievance and take appropriate action as soon as possible, preferably within six weeks thereafter.

So far as other 5616 Organizing Teachers (as per the list

furnished by Mr. Amarjit Singh Bedi, the learned counsel), who claim to be parties before the High Court in Writ Petition No.15632 of 1998, are concerned, it has been submitted that all relevant details with regard to their qualification and age, details of which are to be examined by the Verification Committee, have already been given to the learned counsel appearing for the respondent-State. The verification details shall be put in a tabular form, as per order dated 2nd December, 2015."

As far as the aforesaid observations are concerned, the details, which must have been prepared by the Verification Committee, shall be placed in a tabular form and shall be placed before the Calcutta High Court. We are sure the High Court shall look into the same and pass an appropriate order in pursuance of the directions given as afore-stated as well as other orders passed by this Court.

If the afore-stated exercise has not been done so far, the same shall be finished as soon as possible, preferably before 31st October, 2016. If any matter with regard to similar petition on the subject matter of this litigation is pending before the High Court, it would be open to the High Court

to decide the same in accordance with law on its merits and after taking into account all the orders passed by this Court from time to time. We are sure that the High Court will look into such matter/matters and dispose of the same as soon as possible, preferably before 31st January, 2017.

All pending matters on the subject with this Court shall be transmitted to the High Court as soon as possible along with copies of all orders passed so that the High Court can do the needful.

We request the Hon'ble Chief Justice of the Calcutta High Court to place all these matters before a Division Bench so that a final decision can be taken by the High Court and further time, with regard to filing of appeal/appeals can be avoided.

All the applications are disposed of as they have been transmitted to the Calcutta High Court and the contempt petition stands discharged.

We clarify that this order has been passed in the peculiar facts of these matters, therefore, this order shall not be treated as a precedent."

7. It is the case of the appellants that despite the directions issued by this Court, no verification whatsoever has been conducted in their cases. However, it is the stand of the Board and the State

that no information whatsoever had been furnished so as to enable the Committee to verify the records.

8. Having heard the learned counsel appearing for the appellants and the learned counsel appearing for the Board and the State of West Bengal, we are of the view that there is no point in continuing the litigations before this Court. The only dispute is with regard to verification. In view of the serious dispute on verification, we are of the view that the remaining grievance regarding verification should be independently looked into by an appropriate authority. We direct the Secretary to the West Bengal State Legal Services Authority to verify the remaining grievance of the appellants herein and the intervenors/impleading applicants as on 25.04.2018. It will be open to him to adopt any method for the verification.

9. The Secretary to the West Bengal Legal Services Authority, after notice to the West Bengal Board of Primary Education, will complete the verification process in respect of the appellants and the intervenors/impleading applicants before this Court as on 25.04.2018 and submit a report to the Secretary to the Government, Education Department.

This process shall be completed within four months from today. The Secretary to Government will take the required action for appointment, if any, within another one month.

10. No Court shall entertain any further challenge on the report thus submitted by the Secretary to the West Bengal Legal Service Authority and there shall be no further dispute in this regard. The Secretary is also directed not to entertain any fresh applications or fresh record. We direct the Registry of this Court to forward the records as on 25.04.2018 to the Secretary to the West Bengal Legal Services Authority within ten days from today.

11. If any candidates have been duped by anybody, it is for them to take recourse to appropriate legal remedies.

12. In view of the above, these appeals are disposed of.

.....J.
[KURIAN JOSEPH]

.....J.
[MOHAN M. SHANTANAGOUDAR]

New Delhi;
May 03, 2018.

ITEM NO.4

COURT NO.5

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 3775/2018

(Arising out of impugned final judgment and order dated 08-12-2017 in CAN No. 12020/2016 passed by the High Court At Calcutta)

NABA PARJAY WEST BENGAL PRIMARY
ORGANIZER TEACHERS' ASSOCIATION

Appellant (s)

VERSUS

THE STATE OF WEST BENGAL AND ORS

Respondent (s)

(FOR ADMISSION and I.R. and IA No.17899/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.21816/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS)

WITH

SLP(C) No. 6715/2018 (XVI)

(FOR ADMISSION and I.R. and IA No.36388/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.36390/2018-PERMISSION TO FILE LENGTHY LIST OF DATES)

SLP(C) No. 5485/2018 (XVI)

(FOR ADMISSION and I.R. and IA No.27799/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.28799/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS)

SLP(C) No. 5401/2018 (XVI)

(FOR ADMISSION and I.R. and IA No.27320/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 9802/2018 (XVI)

(FOR ADMISSION and I.R. and IA No.50513/2018-CONDONATION OF DELAY IN FILING and IA No.50515/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.50512/2018-PERMISSION TO FILE SLP/TP)

Diary No(s). 9988/2018 (XVI)

Diary No(s). 9979/2018 (XVI)

(FOR ADMISSION and I.R. and IA No.48605/2018-CONDONATION OF DELAY IN FILING and IA No.48606/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 03-05-2018 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Mr. A. K. Ganguly, Sr. Adv.
Mr. D. K. Mishra, Adv.
Mr. Anindo Mukherjee, Adv.
Mr. Anip Sachthey, Adv.
Ms. Narmada, Adv.
Mr. Chanchal Kumar Ganguly, Adv.
Ms. Nishika Tyagi, Adv.
Mr. Santi Ranjan Das, Adv.
Mrs. Sarla Chandra, AOR

Mr. Jaideep Gupta, Sr. Adv.
Mr. Kunal Chatterjee, Adv.
Ms. Maitrayee Banerjee, Adv.
Mr. Saurav Gupta, Adv.

Mr. Asoke Kumar Banerjee, Sr. Adv.
Ms. Nandini Sen Mukherjee, AOR

Ms. Madhumita Bhattacharjee, AOR

Mr. Soumik Ghosal, AOR

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

Leave granted.

The appeals are disposed of in terms of the signed
non-reportable Judgment.

Pending Interlocutory Applications, if any, stand disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(RENU DIWAN)
ASSISTANT REGISTRAR

(Signed non-reportable Judgment is placed on the file)