

(2019) 01 SC CK 0323

Supreme Court Of India

Case No: Civil Appeal No. 1071, 1072, 1074, 1075, 1076, 1085, 1086, 1087, 1088, 1089,
1090, 1091, 1092 Of 2019

Amina Khatun & Orsbirbhum
District Primary School Council &
Ors

APPELLANT

Vs

RESPONDENT

Date of Decision: Jan. 24, 2019

Acts Referred:

- Constitution Of India, 1950 - Article 142
- West Bengal Primary Teachers Recruitment Rules, 2001 - Rule 9(2)(d)

Hon'ble Judges: Sanjay Kishan Kaul, J; Deepak Gupta, J

Bench: Division Bench

Advocate: Paras Kuhad, Joydeep Mazumdar, Amitrabrata, Rohit Dutta, Jitin Chaturvedi, Priyata Chakraborty, Abhradip Maity, Shoaib Hussain, Shibashish Misra, Joydeep Mazumdar, V. Giri, Madhumita Bhattacharjee, Vidur Kamra, Amith Krishnan, Shalini Kaul, Niraj Jha, Pratima Singh, Nikilesh Ramachandran, Jaideep Gupta, Kunal Chatterji, Maitrayee Banerjee

Final Decision: Disposed Of

Judgement

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.