

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.39 OF 2013

DEBABRATA MISRA & ORS.

..PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

..RESPONDENT(S)

WITH

WRIT PETITION (CIVIL) NO.3 OF 2014

WRIT PETITION (CIVIL) NO.51 OF 2014

WRIT PETITION (CIVIL) NO.257 OF 2014

WRIT PETITION (CIVIL) NO.258 OF 2014

WRIT PETITION (CIVIL) NO.206 OF 2014

WRIT PETITION (CIVIL) NO.94 OF 2012

WRIT PETITION (CIVIL) NO.294 OF 2012

WRIT PETITION (CIVIL) NO.824 OF 2014

O R D E RWrit Petition(Civil) No.39 of 2013

1. Heard learned counsel for the parties to the *lis.*

2. Pleadings are complete in this writ petition.

3. The prayers in this writ petition are as under:

A. Issue a writ order or direction in the nature of writ of certiorari quashing the Notification dated October 19, 2012, the Information Booklet-Cum-Application Form for the candidates appearing at Teacher Eligibility Test (TET) 2012 and the supplementary notification dated 15.11.2012 published by the West Bengal Board of Primary Education for appointment to the post of Assistant Teachers in Government Sponsored/Aided Primary/Junior Basic Schools under the District Primary School Councils in West Bengal in order to bring uniformity in the education system to protect fundamental right.

B. Issue a writ order or direction in the nature of writ of certiorari quashing the Gazette notification S.O.1352(E) dated June 1, 2011 issued by the Ministry of Human Resource Development in exercise of

the powers conferred by sub-section (2) of section 23 of the RTE Act, whereby the Central Government grants relaxation to the State Government of West Bengal in respect of the minimum teacher qualification norms notified by the NCTE as published in the Gazette of India vide No.215 dated the 25th August 2010.

C. Issue a writ order or direction in the nature of writ of certiorari quashing the Notification No.S.O.1264(E) dated 18th May, 2011 issued by the Ministry of Human Resources Development of the Central Government violating the previous undertaking thereby granting relaxation to the State of Orissa for the second time.

D. Issue a writ order or direction in the nature of writ of certiorari quashing the S.O.2165(E) dated 10th September, 2012, S.O.2513 (E) dated the 17th October, 2012, S.O. 2389 (E) dated the 28 September, 2012, S.O. 1390 (E) dated the 1st June, 2011, S.O.1353(E) dated the 18th June, 2012, S.O.2165(E) dated the 10th September, 2012, S.O. 1391 (E) dated the 18th June, 2012 and S.O.2512 (E) dated the 17th October, 2012 issued by the Ministry of Human Resource Development in exercise of the powers conferred by sub-section (2) of section 23 of the Right of Children to Free and Compulsory Education Act, 2009.

E. Issue a writ order or direction in the nature of writ of certiorari quashing

the Notification No.323-SE(Law)/ES/S/1A-01/2009. - 15th march, 2012 which has framed the West Bengal Right of Children to Free and Compulsory Education Rules, 2012 in order to give unwarranted benefits to some candidates and the same is not in conformity with the Right of Children to Free and Compulsory Education Rules, 2010 and thus ultra virus and the same may be set aside to its entirety.

F. Issue a writ order or direction in the nature of writ of Mandamus directing respondent No.1, 2 and 3 to protect the fundamental right of education of children of the State of West Bengal and to give preference in appointment to the Trained Candidates in Primary as well as Upper Primary Candidates as per Central Government's policy decisions and notifications and/or orders.

G. Issue a writ order or direction in the nature of writ of Mandamus directing the respondent No.1 (Union of India), 2 (State of West Bengal) and 3 (Director of School Education, West Bengal) to relax the upper age limit for the persons having B.Ed. qualification for appointment to the post of Asstt. Teacher.

H. pass such order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice."

4. In our opinion, this matter can be decided by the High Court under its jurisdiction under Article 226 of the Constitution of India. Therefore, we transfer this matter before the Calcutta High Court for its consideration and early disposal after affording opportunity of hearing to both the parties.

5. Interim order dated 7th November, 2013 passed by the High Court of Calcutta in Writ Petition No.1019 of 2013, which is pending consideration before the Calcutta High Court, shall continue in this writ petition as well till the final disposal of the matter by the High Court.

6. This order has been passed in respect of State of West Bengal only.

7. The writ petition is disposed of accordingly.

8. In view of the disposal of the writ petition, no orders are required to be passed on the pending interlocutory application(s), if any. The same are disposed of.

Writ Petition (Civil) Nos. 94 of 2012, 294 of 2012, 3 of 2014, 51 of 2014, 257 of 2014, 258 of 2014, 206 of 2014, 824 of 2014

In view of the order passed in Writ Petition No.39 of 2013, all these writ petitions are disposed of in the same terms, observations and directions.

.....CJI.
(H.L. DATTU)

.....J.
(MADAN B. LOKUR)

.....J.
(A.K. SIKRI)

NEW DELHI;
DECEMBER 04, 2014.

ITEM NO.15+16+18

COURT NO.1

SECTION X

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

Writ Petition(s) (Civil) No(s). 39/2013

DEBABRATA MISRA & ORS.

Petitioner(s)

VERSUS

U.O.I. & ORS.

Respondent(s)

(with appln.(s) for intervention, permission to file
additional documents, stay and office report)

WITH

W.P.(C) No. 3/2014

(With appln.(s) for stay and Office Report)

W.P.(C) No. 51/2014(With appln.(s) for impleadment and appln.(s) for stay and
Office Report)W.P.(C) No. 257/2014

(With appln.(s) for stay and Office Report)

W.P.(C) No. 258/2014

(With appln.(s) for stay and Office Report)

W.P.(C) No. 206/2014

(With appln.(s) for stay and Office Report)

W.P.(C) No.94/2012(With appln.(s) for ad-interim ex-parte stay, and office
report)W.P.(C) No.294/2012

(With appln(s) for stay and office report)

W.P. (C) No.824/2014

(With appln(s) for stay and office report)

Date: 04/12/2014 These petitions were called
on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE A.K. SIKRI

For Petitioner(s)

39/2013, 824/2014 Mr. Subhasish Bhowmick, Adv.

3/2014, 51/2014,

257/2014

258/2014, 206/2014

Mr. Joydeep Mazumdar, Adv.

Mr. Amitbrata, Adv.

Mr. Rohit Dutta, Adv.

Mr. Momota C. Bhattacharya, Adv.

Ms. Soumi Kundu, Adv.

Mr. Shibashish Misra, Adv.

94/2012

Mr. Sunil Fernandes, Adv.

Ms. Astha Sharma, Adv.

294/2012

Mr. Ajay Sharma, Adv.

For Respondent(s)

39/2013, 824/2014

Mr. Basava Prabhu S. Patil, Sr. Adv.

Mr. Balraj Dewan, Adv.

Mr. Rajeev Kumar Gupta, Adv.

Mr. Somain Dutta, Adv.

Mr. Purshottam Sharma Tripathi, Adv.

Mr. Ravi Chandra Prakash, Adv.

UOI/HRD

Mr. Maninder Singh, ASG

Mr. Gaurav Sharma, Adv.

	Ms. Asha G. Nair, Adv.
	Ms. Sushma Suri, Adv.
	Mr. B.V. Balram Das, Adv.
W.B. Board of Primary Education & Scl. Service Com.	Mr. Jaideep Gupta, Sr. Adv. Mr. Kunal Chatterji, Adv.
State of W.B.	Mr. Kalyan Bandopadhyay, Sr. Adv. Mr. Anip Sachthey, Adv. Mr. Mohit Paul, Adv. Mr. Saakaar Sardana, Adv.
I.A.2/14in WP51/2014	Mr. Bikram Banerjee, Adv. Mr. Niraj Jha, Adv. Mr. Rauf Rahim, Adv.
NCTE	Mr. Gaurav Sharma, Adv. Mr. Prateek Bhatia, Adv. Ms. Amandeep Kaur, Adv. Mr. Tanmaya Agarwal, Adv. Mr. Abhishek Atrey, Adv. Mr. Arjun Harkauli, Adv. Mr. Parijat Sinha, Adv. Mr. Ashok Panigrahi, Adv. Mr. Avijit Bhattacharjee, Adv. Ms. C. K. Sucharita, Adv. Mr. Amitesh Kumar, Adv. Mr. Shashank Shekhar Singh, Adv. Mr. Mritunjay Kumar Sinha, Adv. Mr. Abhijit Sengupta, Adv.

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

The writ petitions and pending
applications are disposed of in terms of the
signed order.

(Neetu Khajuria)
Sr.P.A.

(Vinod Kulvi)
Assistant Registrar

(Signed order is placed on the file.)