

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.456 of 2023

Sri Biswajit Das Baishnab & another

..... Petitioner(s);

Versus

The State of Tripura & others

.....Respondent(s)

For Petitioner(s) : Mrs. S. Deb (Gupta), Advocate,
Ms. R. Dey, Advocate.

For Respondent(s) : Mr. D. Sarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

30/11/2023

Heard Mrs. S. Deb (Gupta), learned counsel for the petitioners and
Mr. D. Sarma, learned Additional Government Advocate for the respondents-
State.

2. These two petitioners have approached this Court *inter alia* for the
followings reliefs:

“i) Admit this petition of the petitioners and call for records relevant to the
subject matter from the custody of the respondents.

ii) Issue Writ directing the respondents no.1 to 11 to quash the Notification vide
No.F.1(1-2)-SE/Samagra/Estt./RCMT/STF/2019(L)/5265, dated 27.03.2023 and
notification vide no.F.1(1-2)-SE/Samagra/Estt./RCMT/STF/2019/6951-52 dated
05.06.2023 issued by respondent No.3.

iii) Issue Writ directing the respondents no.1 to 11 to quash the notification vide
No.F.2(34)-EDN(W)/Samagra (Estt.)/2018/13031 dated 15.07.2023 issued by
respondent No.4, notification vide No.F.2(1-21)/EDN KH/Samagra/Esst./2016/
947 dated 15.07.2023 issued by respondent no.5, notification vide No.F.7(1-1)/
EDN/SPJ/Samagra/ESST/2018-19/1226 dated 15.07.2023 issued by respondent
no.6, notification vide No.F.3(2-3)/DEO(U)/Samagra/KLS/2018-19/3292 dated
15.07.2023 issued by respondent no.7, notification vide No.F.18(1)/DEO(N)/
DMN/SAMAGRA/ESST./2019/2475 dated 15.07.2023 issued by respondent
no.8, notification vide No.F.11(4-2)-EDN(G)/Samagra/Esst./2023/380 dated
15.07.2023 issued by respondent no.9, notification vide No.F.8(32)/DPC(S)/Esst.
/RCMT/SmSA/2023/108 dated 15.07.2023 issued by respondent no.10 and
notification vide No.F.6(28-1)/EDN(D)/Samagra/Esst./BRP/2023/11189(A)
dated 15.07.2023 issued by respondent no.11.

iv) Issue Writ directing the respondents no.1 to 11 to consider the respondent
Nos.12, 13 & 14 against the General Category seats as they have secured more
marks than the last of general category candidates i.e. the respondent nos.20, 21
& 22.

- v) Issue Writ directing the respondent nos.1 to 11 to consider the selection of the petitioner no.1 and others against the vacancies reserved for the Schedule Castes.
- vi) Issue Writ directing the respondents nos.1 to 11 to cancel the selection of respondents nos.15 to 20 as they are not having essential teaching experience in Government/Govt. Aided/Private schools and an inherent aptitude for training and research as per the memo dated 22.05.2022 issued by Respondent no.3.
- vii) Pass such other or further order/orders and directing/directions as to your Lordship deem fit and proper having regard to the facts and circumstances of the case.”

3. The case of the petitioners was build up upon a number of factual and legal plea which have been succinctly taken note of in the order dated 27.07.2023 which reads as under :

“Under advertisement dated 22.09.2022 (Annexure-1), a recruitment exercise for filling up vacant contractual posts of Urban/Block Resource Person (Subject Specific) and Cluster Resource Person in different districts of Tripura have been carried out. The contractual engagement would be for a period of one year as stipulated. There was a centralized examination and preliminary written test of multiple choice question and thereafter shortlisted candidates also faced *viva-voce* interview which consisted of 15 marks. As per the result of the written test the list of the shortlisted candidates who were called for interview are contained in notification dated 29.12.2022. The final notification of combined merit list of all districts and all categories was published on 05.06.2023 (Annexure-5) by the State Project Director, Samagra Shiksha, Tripura.

Petitioner No.1 is a Scheduled Caste category candidate. He has scored 68.80 marks out of 100 whereas respondents No.12, 13, 14 who are also Scheduled Caste category candidates have scored more marks than the last General category candidate i.e.75 marks out of 100, i.e. respondents No.21 and 22. According to the petitioner No.1, since respondents No.12, 13 & 14 have scored 78.66, 75.60 & 75.60 respectively and are belonging to the Scheduled Caste category but have been placed in the merit list under SC category in the notification dated 05.06.2023 though they ought to have been kept in the General category as per the higher marks scored. This would create place for candidate like the petitioner to be included in the vacancies for Scheduled Caste category.

Petitioner No.2 is a General category candidate. According to him, respondents No.15 to 20 do not possess the teaching experience in Government/Government aided/private schools. Respondents No.19 and 20 have three months B.Ed. practice teaching certificate which is not equivalent to teaching experience. Respondent No.15 has experience of Lab technician in ICFAI University. Respondents No.16, 17 & 18 have no teaching experience in Government/Government aided/private schools whereas petitioner No.2 fulfills the eligibility criteria. As such, the merit list suffers from serious errors and non-conformance to the principles laid under Articles 14 and 16(1) of the Constitution of India and the relevant applicable reservation norms.

It is also submitted that candidates have applied through one common application though as per the advertisement the break-up of the vacancies in each districts are different. It is therefore not discernable as to how the allocations of selected candidates in different categories have been made to different districts. Petitioners are also from different districts. It is further submitted that the counseling process is underway and would be concluded by 31.07.2023. Petitioners’ rightful claim would be ousted if intervention is not made at this stage.

Learned counsel for the respondent-State Mr. D. Sharma prays for and is allowed one week time to take instructions.

Learned counsel for the petitioners submits that petitioners have already made representations before the respondent-authorities raising their grievances on 14.06.2023 and 17.06.2023 (Annexures-6 & 7) but have not been heeded to. In those circumstances, respondent No.3 may in the meantime also consider the representation of the petitioners and if he finds substance in it, petitioners can also be called for counseling in the meantime.

List the matter on *4th August, 2023.*”

The writ proceedings have progressed for one or the other reason mostly at the behest of the learned counsel for the State, who conveyed to the Court that since the recruitment process was underway and final results were likely to be published, the grievance of the petitioners may be inchoate at this stage. After the matter was adjourned on 10th October, 2023 on the prayer of Mr. D. Sarma, learned Additional Government Advocate that the preparation of the merit list was at the final stage, a Supplementary Counter Affidavit has been filed by them which seems to narrow down the issue.

4. From the Supplementary Counter Affidavit of the respondents No.1 to 11, it is indicated that petitioner No.1 had applied (online) for the contractual post of Cluster Resource Person (CRP) under Samagra Shiksha, Tripura and after counseling, he has been shortlisted for the post of CRP in South Tripura District. Petitioner No.1 has given his confirmation/willingness to join the said post by his undertaking dated 26.09.2023 [Annexure-R/10]. Copy of his application for the post of CRP and Admit Card have been annexed to the Supplementary Counter Affidavit. As regards, petitioner No.2, it has been stated that he also had applied for the post of CRP under Samagra Shiksha, Tripura apart from the contractual post of Urban/Block Resource Person (URP/BRP). He has been included in the provisional reserve panel list of candidates for the post of CRP as per notification dated 03.10.2023 [Annexure-R/13]. Respondents state that the District Project Coordinators have issued the

notification pertaining to second phase of counseling for the post of CRP for those candidates listed in the notification dated 27.07.2023 who have not yet applied in particular districts, and also for candidates who are in the provisional reserve panel list vide notification dated 03.10.2023. Petitioner No.2 may apply the second phase of counseling for the post of CRP.

5. Mr. D. Sarma, learned Additional Government Advocate for the respondents-State, submits that the grievance of the petitioner No.1 has been redressed. The grievance of the petitioner No.2 can also be addressed if he participates in the second phase of counseling for the post of CRP. It is submitted that since the advertisement invited applications both for the contractual post of URP/BRP and CRP in different districts and the petitioners have applied both for URP/BRP and CRP, the issues raised by the petitioners in respect of the selection process for BRP have become academic in nature since the petitioners have been duly considered for the post of CRP. Even otherwise the petitioners are in the reserved panel of URP/BRP. Since the selection process covers eight districts of the State of Tripura and several posts get vacant upon exercise of options/choice by the applicants for any of the eight districts and any of the post of URP/BRP or CRP, there are good chances for the petitioner No.2 also to succeed. As such, this Court may not be required to enter into the initial plea raised by the petitioners regarding the selection process. The applicants have also applied for the individual districts under the advertisement. The posts are contractual in nature for a period of 1(one) year which may be extended on satisfactory performance. As such, the writ petition may be disposed of.

6. Mrs. S. Deb (Gupta), learned counsel for the petitioners, submits that there is a significant difference in the role and responsibilities and also the status of the two posts i.e. URP/BRP and CRP. As such, petitioners who had applied for both URP/BRP and CRP in different districts are inclined to press their grievances in relation to the selection process for URP/BRP. Learned counsel for the petitioners sought to substantiate the plea taken note of in the order dated 27.07.2023. It is submitted that as such the claim of the petitioners for the post of URP/BRP may be kept alive.

7. I have considered the submission of learned counsel for the parties and taken note of the relevant pleadings placed from the record and the annexures relied upon by them. It appears that the present exercise is spanning across the State covering all the eight districts and involves recruitment to the vacant contractual posts of URP/BRP (subject specific) and CRP under Samagra Shiksha, Tripura for a period of one year which may be extended on rendering satisfactory service. It further appears that the candidates were at liberty to apply for separate districts and also for both the posts i.e. URP/BRP and CRP respectively. The computation of the vacancies in each district and in each subject takes into consideration both the unreserved and reserved posts available. Since large number of persons have applied for a number of districts and also for both the posts of URP/BRP and CRP, repeated counseling process is being undertaken by the respondent authorities as the merit list has to be revised from time to time taking into account the options exercised by individual petitioners and also the availability of vacancy in the districts in

which they have applied for. This is a cumbersome and continuing process. As it has unfolded by now, the petitioner No.1, who had also applied for the post of CRP, has been shortlisted in the merit list for the district of South Tripura in Pure Science. He also conveyed his willingness to join the said post by his undertaking dated 26.09.2023. As such, petitioner No.1 has opted for joining the offered post of CRP in South Tripura District and thus his grievances have been redressed. As regards petitioner No.2 who has also applied for the post of CRP, his name occurs in the reserve panel list. As per the statement made in the Supplementary Counter Affidavit, petitioner No.2 has been advised to apply in the second phase of counseling for the post of CRP in which category also, there are vacancies which may increase as well. As such, this Court is of the view that petitioner No.2, who also applied for the post of CRP, should participate in the second phase of counseling and in case his candidature finds place in the merit list, his grievances for appointment on the post of URP/BRP or CRP would stand redressed. Since the process has not yet been concluded, this Court at this stage is inclined to relegate the petitioner No.2 to participate in the second phase of counseling process of CRP and await the final result. It is expected that the exercise will be completed within a reasonable period of 4(four) weeks.

8. Writ petition stands disposed of. Pending application(s), if any, shall also stand disposed of.

(APARESH KUMAR SINGH), CJ

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PULAK BANIK Date: 2023.12.01
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