

**HIGH COURT OF TRIPURA  
AGARTALA**

**WP(C) No.610 of 2023**

Smt. Basanti Banik

.....Petitioner(s);

Versus

The State of Tripura & others

.....Respondent(s)

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For Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate,  
Mr. Kawsik Nath, Advocate,  
Mr. Dipjyoti Paul, Advocate.

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For Respondent(s) : Mr. Karnajit De, Addl. G.A.

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**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH**

**Order**

**30/09/2023**

Heard Mr. Dipjyoti Paul, learned counsel for the petitioner and Mr. Karnajit De, learned Additional Government Advocate for the respondents-State.

2. Petitioner has assailed the reasoned order dated 28.11.2022 [Annexure-21] passed by the Controller of Examinations, Teachers' Recruitment Board Tripura ['TRBT', *for short*] after the matter was remitted by the learned Writ Court in WP(C) No.986/2022 vide order dated 22.11.2022 [Annexure-19]. The advertisement for Tripura Teachers' Eligibility Test (T-TET) 2021 notified by the TRBT, Education (School) Department, Government of Tripura [Annexure-1] is dated 10.02.2021. The cut-off date for finalization of application and payment of fees was 31.03.2021. The exam was held on 03.10.2021 and results were published on 22.12.2021. Petitioner made a request for 3(three) months time to produce the D.El.Ed. mark-sheet. The final results were published after verification of documents on 17.05.2022. Petitioner could not produce the results or mark-sheet of D.El.Ed. course, which is a two-year course, as it was published on 29.07.2022 only. Petitioner

became ineligible and, therefore, could not be selected. Petitioner approached the Writ Court in the first round of litigation in WP(C) No.986/2022 which was disposed of by order dated 22.11.2022 [Annexure-19], *inter alia* directing the respondent-TRBT to consider the representation of the petitioner sympathetically, and with a humanitarian approach keeping in mind that it was not the fault of the petitioner that she could not produce the documents before the authority concerned at the time of verification of the necessary documents, which a candidate was supposed to be submitted. The respondent-TRBT was directed to dispose of the representation within 7(seven) days from the date of order. The impugned reasoned order has thereafter been passed on 28.11.2022. The reasoned order [Annexure-21] is extracted in extenso as it refers to the entire relevant details of the petitioner's case, the terms of the advertisement, the relevant dates on which the exams were held and the final results.

"No.F.1(1-16)-TRBT/ESTT/2022/358  
Teachers' Recruitment Board Tripura  
Education (School) Department  
Government of Tripura  
Office Lane Agartala

#### ORDER

WHEREAS Smt. Basanti Banik Submitted representation dated 06.01.2022 that she was a student of 2<sup>nd</sup> year D.El.Ed. course and she sought 3 months time for submission of her final D.El.Ed. marks-sheet. Another representation was submitted on 25.03.2022 by Smt. Banik stating that she should be allowed time till declaration of her D.El.Ed. result. She also submitted another representation dated 29.10.2022 to consider her case. She was verbally intimated each & every time that she was not eligible for T-TET 2021 as per terms & conditions and also requested her to see the Prospectus-cum-Instructions.

AND WHEREAS, TRBT has notified T-TET 2021 on 10.02.2021. Candidates were asked to apply online. It was mentioned in the notice that "1. Your admission in the test will be purely provisional. Since, pre-test verification of document is not done, candidate is required to apply online in her/his own capacity on being satisfied the terms and conditions of eligibility for T-TET 2021. However, if it is found later on that you do not fulfil any of the conditions of the eligibility, your candidature will be cancelled at any stage and no appeal against such cancellation will be entertained. It is therefore your utmost duty to read carefully and satisfy yourself that you fulfil conditions of eligibility as laid down in the respective Prospectus-cum-Instructions and other notifications."

AND WHEREAS, TRBT issued Prospectus-cum-Instructions along with the notice for T-TET 2021. The following points were mentioned in the Prospectus-cum-Instructions:

(i) "Candidate should read the Prospectus-cum-Instructions, T-TET 2022 and other notifications carefully and satisfy herself/himself that she/he fulfils the criteria."

(ii) "In case, if it is found later on that candidate does not fulfil any criterion, her/his candidature will be treated as cancelled at any stage and no appeal against such cancellation will be entertained."

(iii) "There is no provision of pre-test scrutiny of mark-sheets/certificates /documents, as such candidate is required to apply online in her/his own capacity on being satisfied the terms and conditions of eligibilities for T-TET 2021. Candidate's admission in the test will be purely provisional."

(iv) "Candidates who are appearing in the final year of Bachelor Degree in Education (B. Ed)/ Diploma in Elementary Education (D.El.Ed.) etc. are provisionally allowed to appear in the T-TET 2021. Such candidates must have to produce Bachelor Degree in Education (B. Ed)/ Diploma in Elementary Education (D.El.Ed.) Etc. pass mark-sheet during scrutiny of mark-sheets/certificates/documents or else their candidature will be cancelled without further notification and no appeal to this end will be considered."

(v) "Whatever the case may be where it is found that a candidate's admission in the test has been effected by error, malpractice, suppression of facts or violation of any of the conditions of eligibility, terms and conditions as laid down in this Prospectus-cum-Instructions, the Board may cancel the candidate's admission in the test and forfeit the test fees, if any, paid by the candidate, notwithstanding the inclusion of the name of the candidate in the list of candidates registered for the test. The Board may also debar the candidate from appearing in the test of the Board for a specific period whenever any of the mentioned irregularities is noticed during the future date of scrutiny. Further, if any of the above irregularities is noticed during scrutiny of certificate/ documents, the candidature will be treated as cancelled even if the name of the candidate appears in the merit list. The decision of the Board will be final in such instance."

AND WHEREAS, as per the terms and conditions as mentioned in Prospectus-cum-Instructions candidates appearing in the final year of B.Ed./D.El.Ed could apply for T-TET-2021.

AND WHEREAS, from the records it is revealed that Smt. Banik appeared in Part-I, D.El.Ed. examination in September, 2021 and result published on 29.12.2021, which essentially means when notice for T-TET 2021 was issued on 10.02.2021, she was in the first year of D.El.Ed course. Smt. Banik applied violating the terms & conditions of T-TET 2021.

AND WHEREAS, Smt. Banik requested the Board for three months time on 06.01.2022, and the Board declared the names of T-TET qualified candidates after scrutiny of documents of all candidates on 17.05.2022. That means even after five months she did not pass D.El.Ed. course. Her final result was declared on 29.07.2022.

AND WHEREAS, the Hon'ble High Court of Tripura, in its order vide No.WP(C) 986 of 2022 dated 22.11.2022 directed TRBT to consider the representation of the petitioner sympathetically & with humanitarian approach keeping in mind that it was not the fault of the petitioner that she could not produce the documents. The Hon'ble Court directed TRBT to dispose of the representation within a period of 7 days from the date of Order.

AND WHEREAS, the Smt. Banik concealed to the Hon'ble Court, that she applied for the test violating the terms and conditions as mentioned in the Prospectus cum Instructions. The incidence of Covid-19 had its impact equally for all individuals and institutions in the country. It appears that her entire plea of the petition rests on one leg that she could not produce the mark-sheet due to covid-19. But she concealed to the Hon'ble High Court that she was in first year of D.El.Ed. As per terms and conditions only the final year candidates of B.Ed./D.El.Ed could apply for T-TET 2021. Being a first year D.El.Ed student she was not eligible to apply for T-TET 2021. Her case was not like she was appearing in her final examination of D.El.Ed at the time of online application of T-TET and due to Covid-19 her result was delayed. Notice for T-TET 2021 was issued on 10.02.2021 and her first year result (Part-I) of D.El.Ed. examination was published on 29.12.2021.

AND WHEREAS, TRBT examined representations of Smt. Banik keeping in view of the direction of the Hon'ble High Court of Tripura. Representations and records of Smt. Banik have been examined with utmost sympathetic ground and all-out efforts. TRBT in compliance with the direction of the Hon'ble Court considered her application more sympathetically when she is at the verge of getting over aged. Principle of Natural Justice is something which needs to be extended to one and all but in this instant case the petitioner concealing some facts approached the Hon'ble Court to get the benefit of Covid-19 pandemic. After having a threadbare exploration of all possibilities in favour of the candidate, keeping in view of the constrains of the terms and conditions of T-TET 2021, the board found no way out but to cancel the candidature of the candidate for having T-TET qualified certificate.

AND WHEREAS, Smt. Banik could not be considered as T-TET qualified, her candidature for Graduate Teacher (VI-VIII) stands cancelled.

NOW, THEREFORE, going through the facts, considering the terms and conditions, TRBT is constrained to take the decision to declare her eligible in T-TET 2021. Thus her representations are rejected.

Sd-  
(Dr.P.R. Deb)  
Controller of Examinations  
Teachers' Recruitment Board Tripura"

3. The moot question involved in the present case is whether the order of rejection suffers from any illegality in not considering the case of the petitioner as regards her eligibility in the T-TET 2021.

Petitioner was a student of D.El.Ed. course in the session 2019-2021 which could not be completed by the year 2021 as COVID-19 intervened. It is not in dispute that petitioner on the cut-off date for application i.e. 31.03.2021, petitioner was still in the first year of the course. Petitioner's final results were declared on 29.07.2022 i.e. after the final results of T-TET 2021 were declared on 22.12.2021. The terms of advertisement required the qualification of D.El.Ed. also and only those, who were appearing candidates in the final year of D.El.Ed. course, were permitted to apply. The Controller of Examinations, TRBT has, in the reasoned order, observed that on the first occasion, this fact was concealed by the petitioner before the learned Writ Court that she had applied in teeth of the terms and conditions of the Prospectus-cum-Instructions. However, after according humanitarian consideration to the case of the petitioner, the TRBT has rejected her

application as she was ineligible on the cut-off date i.e. 31.03.2021 for making application under the advertisement at Annexure-1.

4. Mr. Dipjyoti Paul, learned counsel for the petitioner, submits that the petitioner is not at fault. It is a case of extreme hardship. Though petitioner has crossed the age of eligibility i.e. 45 years by now, yet she has successfully qualified the T-TET 2021. The delay in completion of the course due to COVID-19 should not be the reason to deny appointment to the petitioner. It is submitted that in view of the exceptional reasons beyond the control of the petitioner, the respondents may be directed to consider her eligible and appoint her on the basis of her results as a Teacher. Petitioner was one of the unfortunate 10,323 teachers whose services were terminated by virtue of the judgment & order dated 07.05.2014 rendered by the learned Division Bench of this Court in the case of *Shri Tanmoy Nath & others v. The State of Tripura & others*. This Court may, in exercise of its wide powers under Article 226 of the Constitution of India, do complete justice to the cause of the petitioner.

5. Mr. Karnajit De, learned Additional Government Advocate for the respondents-State, submits that the petitioner was ineligible to apply for the T-TET 2021 conducted by the TRBT under advertisement dated 10.02.2021. She was in the first year of the D.El.Ed. course on the cut-off date for submission of application. Only final year students of D.El.Ed course were permitted to apply. As such, since the petitioner lacked the initial eligibility to participate in the T-TET 2021, the respondents could not allow her plea, as it would amount to derogating from the settled principles of law as regards the eligibility of a candidate on the cut-off date for making an application in such competitive test for public recruitment. The Controller of Examinations, TRBT

has given due consideration to all the aspects of the matter and despite all-out efforts and humanitarian considerations, did not find any legal basis to allow her claim. It is submitted that if any leniency is shown to the petitioner, it may open floodgates which the respondents would not be able to deal with.

6. I have considered the submission of learned counsel for the parties and taken note of the relevant materials placed from the record. I have also gone through the order dated 22.11.2022 passed by the learned Writ Court in WP(C) No.986/2022 and the order of rejection dated 28.11.2022 at Annexure-21.

7. As observed in the foregoing paragraphs, the issue involved herein is whether the petitioner was eligible on the cut-off date for making application under T-TET 2021. Obviously she was not, as she was in the first year of D.El.Ed. course at the time of making her application. The petitioner has not questioned the cut-off date for eligibility prescribed under the advertisement dated 10.02.2021, either in any previous proceedings on grounds of COVID-19 delay in completion of the course. The examining body has to adhere to a cut-off date for conduct of such competitive examination; otherwise there would be no clarity on the subject. As a matter of fact, even though the results were published finally on 17.05.2022, petitioner could pass the final year exam of D.El.Ed. course only on 29.07.2022. Learned counsel for the petitioner has referred to certain UGC instructions as regards relaxation during COVID-19 period. However, the instant examination is not guided by UGC Regulations as it is for recruitment to Teachers in schools. The examining body i.e. TRBT is the competent authority which has to take a decision on the question of eligibility and terms and conditions of the recruitment exercise.

8. I find that the Controller of Examinations, TRBT has elaborately dealt with the case of the petitioner and found her to be ineligible on the cut-off date for making application, as she was in the First Year of the D.El.Ed. course on 31.03.2021. Delay in holding the examination does not entitle a candidate to claim eligibility, if he/she otherwise was ineligible on the cut-off date for making applications. As noted above, the cut-off date for application is not under challenge. As such, any other view in the matter would lead to the dilution of the sanctity of cut-off date in a competitive exam of such a nature where thousands of teachers were to be recruited in a fresh selection exercise after services of such teachers were terminated because of illegalities and arbitrariness in the selection process as held in the case of *Shri Tanmoy Nath* (supra) by this Court and affirmed by the Apex Court as well.

9. Therefore, this Court does not feel persuaded to take any lenient view in the matter, though the case may be of hardship. As such, I do not find any error or illegality in the impugned order rejecting the representation of the petitioner.

10. Accordingly, the writ petition is dismissed. Pending application(s), if any, shall stand disposed of.

**(APARESH KUMAR SINGH), CJ**

Pijush/

**PULAK BANIK** Date: 2023.09.30  
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