

**Constitutional Writ**

Present: The Hon'ble Justice Jayanta Kumar Biswas.

Judgment on: June 11, 2010.

W.P.No.11815 (W) of 2010

Subrata Maity

v.

State of West Bengal & Ors.

**POINTS**

Employment – Petitioner seeking mandamus for being employed after relaxation of age –  
Petitioner's name not sponsored by employment exchange nor did he apply for the same post  
– If eligible – Constitution of India, Article 226.

**FACTS**

The petitioner in this art.226 petition dated June 8, 2010 is seeking a mandamus commanding the respondents to give him an employment in the school education department either as a primary or as a secondary school teacher after relaxing the age qualification and treating him as an exempted category and also as a physically challenged category candidate. The admitted position is that the name of the petitioner has not been sponsored by any employment exchange to any district primary school council or the school service commission for the post of teacher. The further admitted position is that the petitioner has not applied in response to any employment notice for the post of primary or secondary school teacher.

**HELD**

Since the petitioner's name has not been sponsored by any employment Exchange nor he has not applied for the concerned post, he cannot seek mandamus under Article 226, commanding the respondents to give him an employment in the school education department as a teacher. he has not been selected for the post of a teacher. Para 4

Appointments to the posts of primary school teacher and secondary school teacher are made according to the respective statutory recruitment rules. Needless to say that if the employment notice for any post is published inviting application, the petitioner is free to apply. The Hon'ble High Court is unable to see how he can seek a mandamus. Para 5

Mr Milan Kumar Bhattacharyya & Ms Daizy Basu, advocates, for the petitioner.

Mrs Abha Roy & Ms Sabita Roy, advocates, for the State.

**THE COURT:** 1)The petitioner in this art.226 petition dated June 8, 2010 is seeking a mandamus commanding the respondents to give him an employment in the school education department either as a primary or as a secondary school teacher after relaxing the age qualification and treating him as an exempted category and also as a physically challenged category candidate.

2)Mr Bhattacharyya, counsel for the petitioner, submits that the petitioner has obtained necessary certificates to show that his name can be registered by the employment exchange as an exempted category and also as a physically challenged category job seeker.

3)The admitted position is that the name of the petitioner has not been sponsored by any employment exchange to any district primary school council or the school service commission for the post of teacher. The further admitted position is that the petitioner has not applied in response to any employment notice for the post of primary or secondary school teacher.

4)Under the circumstances, I am unable to see how the petitioner can seek a mandamus under art.226 commanding the respondents to give him an employment in the school education department either as a primary school teacher or as a secondary school teacher. He has not been selected for the post of teacher.

5)Appointments to the posts of primary school teacher and secondary school teacher are made according to the respective statutory recruitment rules. Needless to say that if the employment notice for any post is published inviting application, the petitioner is free to apply. But I am unable to see how he can seek a mandamus.

6)For these reasons, the petition is dismissed. No costs. Certified xerox.  
sh ( Jayanta Kumar Biswas, J )