

16-06-2010  
sb-9

*Constitutional Writ*  
**Present :Hon'ble Justice Jayanta Kumar Biswas**

W.P.No.12346(W) of 2010  
Gobinda Maity & Ors.

-vs-

The State of West Bengal & Ors.

**POINTS**

CUT OFF MARKS-The cut off marks whether to be determined on the basis of the marks obtained by the candidates applying for the post in the examinations and the number of vacancies – Service Law

**FACTS**

The petitioners in this art.226 petition dated June 10, 2010 are seeking a mandamus commanding the respondents to permit them to participate in the selection process initiated by Purba Medinipur District Primary School Council for appointment to the post of primary school teacher.

The employment notice was published on August 30, 2009. In para.13 the petitioners have stated that they applied within the time.

**HELD**

The cut off marks are to be determined on the basis of the marks obtained by the candidates applying for the post in the examinations taking which they acquired the requisite qualifications. The number of candidates to be called for the written test is also to be determined according to the rules and keeping in mind the number of vacancies.  
Para 6

Since the petitioners have not obtained the cut off marks, there is no question of permitting them to take the written examination.  
Para 7

Mr. Dhiman Kumar Sengupta ....for the petitioners

Mr. Saikat Banerjee .....for the board

Mr. Tulsidas Maity .....for the council

## **THE COURT**

1.The petitioners in this art.226 petition dated June 11, 2010 are seeking a mandamus commanding the respondents to permit them to participate in the selection process initiated by Purba Medinipur District Primary School Council for appointment to the post of primary school teacher.

2.The employment notice was published on August 30, 2009. In para.13 the petitioners have stated that they applied within the time.

3.Though there is no commonness in the cause of action and hence the petitioners cannot be permitted to join in one petition, I do not think on this ground the petition should be dismissed, because after hearing counsel for the parties I find that there is no reason to entertain the petition at all.

4.Case of the petitioners is that the council has not issued admit cards so that they may take the written test. Counsel for the board and council submit that admit cards were not issued to the petitioners because they did not obtain the cut off marks notified by the council.

5.The cut off marks were notified according to the provisions of the recruitment rules. It is argued that had the council notified the cut off marks at the date the employment notice was published, the petitioners, if did not obtain the cut off marks, would not have applied for the post at all.

6.In my opinion, the argument is totally misconceived. The cut off marks are to be determined on the basis of the marks obtained by the candidates applying for the post in the examinations taking which they acquired the requisite qualifications. The number of candidates to be called for the written test is also to be determined according to the rules and keeping in mind the number of vacancies.

7. Under the circumstances, the council could not notify any cut off marks at the date the employment notice was published. The petitioners, it seems to me, are arguing that the council should have performed an impossible thing. Since the petitioners have not obtained the cut off marks, there is no question of permitting them to take the written examination. They are not entitled to any relief.

8. For these reasons, the petition is dismissed. No costs.  
Certified xerox.

(Jayanta Kumar Biswas, J.)