

Government of West Bengal
School Education Department
Bikash Bhawan, Salt Lake, Kolkata-91

No. 759-SE(EE)/10M-147/2015

Dated : 28/09/2015

From: A. Roy,
Principal Secretary to the Govt. of West Bengal

To: The President,
West Bengal Board of Primary Education

Subject : Increasing duration of TET Examination to 2 ½ hours.

In sending herewith a copy of the order issued by the Hon'ble High Court, Calcutta on the subject cited above the undersigned is directed to request him to increase duration of TET Examination to 2 ½ hours (Two and a half hours).

This has the approval of Hon'ble MIC.

Encl: As stated.

Sd/- A. Roy
Principal Secretary
School Education Department.

No. 759/1(22)-SE(EE)/10M-147/2015

Dated : 28/09/2015

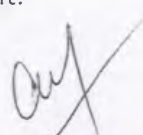
Copy forwarded for information and taking necessary action to-
1-20) The Chairman, District Primary School Council, -----

(all districts)

----- (All Districts).

21) The Commissioner on School Education, West Bengal

22) OSD to Hon'ble MIC, School Education Department.


Principal Secretary
School Education Department.

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

31-08-2015
sb-9

M.A.T.No.1333 of 2015

Raja Chatterjee

-vs-

State of West Bengal Ors.

with

CAN No.8491 of 2015

Mr. Bikash Ranjan Bhattacharya, Sr. Advocate
Mr. Bikram Banerjee
Mr. Sudipta Dasgupta
Mr. Arkadeb Biswas ...for the appellant

Mr. L.K. Gupta Addl. Advocate-General
Mr. J.K. Gupta ...for the State

Mr. Kaushik Chanda, Addl. Solicitor-General
Mr. Apurba Ghosh ...for the Union of India

Ms. Asha G. Guitgutia
Mr. Arijit Das ...for NCTE

Mr. Subir Sanyal
Mr. Ratul Biswas ...for the WB Board of Primary
Education

The subject matter of challenge in the appeal is a judgment and order dated August 17, 2015 passed by a learned single Judge of this court in WP No. 17838(W) of 2015 by which the learned trial court dismissed the writ petition without any order as to costs. Being aggrieved, the writ petitioner has come up in appeal.

The question for consideration briefly stated is whether the duration of the Teachers' Eligibility Test examination will be 90 minutes or 150 minutes.

The undisputed facts are as follows. The West Bengal Board of Primary Education issued a notice intimating that the Teachers' Eligibility Test examination will be held on March 30, 2014 as per the guidelines of the NCTE vide No.76-4/2010 NCTE/Acad dated February 11, 2011 throughout the State on a single day. The details as regards time, venue, etc. will be published in due course. The guidelines issued by the NCTE under the cover of the

notice dated February 11, 2011 contained the following provisions as regards duration of the examination :-

“7. There will be two papers of the TET Paper I will be for a person who intends to be a teacher of classes I to V. Paper II will be for a person who intends to be a teacher for classes VI to VIII. A person who intends to be a teacher either for classes I to V or for classes VI to VIII will have to appear in both papers (Paper I and Paper II).

Paper I (for classes I to V); No. of MCQs – 150;
Duration of examination, one-and-a-half hours
Structure and Content (All Compulsory)

(i) Child Development and Pedagogy	30 MCQs	30 Marks	
(ii) Language I	30 "	30 "	
(iii) Language II	30 "	30 "	
(iv) Mathematics	30 "	30 "	
(v) Environmental Studies	30 "	30 "	" "

A slight modification as regards duration of the examination was made by the NCTE by a notice dated April 9, 2013 extending duration of examination to 150 minutes from 90 minutes for a period of six months. The notice so far as the same is material for our purpose reads as follows:-

“Since the inception of TFI, suggestions including from the CBSE and the Government of Karnataka have been received to increase the duration of time given to complete the TET by the candidates.

This matter was therefore, considered by the NCTE Committee in its 32nd meeting held on 8th March 2013, wherein the Committee decided to increase the time duration from 1.30 hours to 2.30 hours for a period of six months or till the report of the Committee instituted for this purpose is submitted and a decision taken thereon, whichever is earlier.

Accordingly, in view of the above, it is hereby intimated that the time duration as stipulated in clause 7 of NCTE Guidelines for conducting TET has been increased from 1.30 hours to 2.30 hours for a period of six months or till the report of the Committee constituted for the purpose is submitted and a decision taken thereon, whichever is earlier.”

Needless to mention that the notice dated February 18, 2014 was issued by the West Bengal Board of Primary Education when the period of six months provided for in the amendment made by the notice dated April 9, 2013 as regards duration of the examination had already come to an end. Presumably, on that basis the duration of the

examination to be conducted pursuant to the notice dated February 18, 2014 was fixed at 90 minutes. It is not in dispute that the examination notified on February 18, 2014 to be held on March 30, 2014 has not as yet been held. It was postponed from time to time. Lastly, the examinations were due to be held on August 30, 2015 and now they have been postponed till October 4, 2015. Subsequent to February 18, 2014 the NCTE granted another extension of the duration of the examination notified on April 9, 2013 which reads as follows:-

“The NCTE vide letter No. F. 76-1/2011/NCTE/Acad. dated 09th April, 2013 had increased the time duration as stipulated in clause 7 of NCTE Guidelines for conducting TET from 1.30 hours to 2.30 hours for a period of six months or till the report of the Committee constituted for Reviewing the existing guidelines for conducting TET submits its report and a decision taken thereon, whichever is earlier.

The extended time duration as stipulated in NCTE letter dated 09th April 2013 is further extended till the Committee constituted for the purpose submit its report.”

The writ petitioner is interested in contending that duration of the Teachers' Eligibility Test should not be restricted to 90 minutes when the duration has been extended to 150 minutes by the apex body, namely the NCTE.

Ms Gutgutia, learned advocate appearing for the NCTE, submitted that the NCTE is the Nodal Agency and its decisions are binding upon the State authorities, including the West Bengal Board of Primary Education, and they are bound to follow the amendment made on May 22, 2014 for any examination to be held subsequent thereto.

Mr Chanda, learned Additional Solicitor-General appearing for the Union of India, the respondent no.5, submitted that he endorses the submissions made by Ms Gutgutia.

Mr Gupta, learned Additional Advocate-General of West Bengal, advanced the following submissions:

(a) The guidelines notified under the cover of the letter dated February 11, 2011 are the guidelines issued by

the NCTE whereas the extension by the letter dated May 22, 2014 was issued by the Union of India. The extension of time by the letter dated April 9, 2013 was pursuant to a decision of the NCTE Committee but the same does not appear to be true as regards the extension under the cover of the letter dated May 22, 2014. Therefore, such extension is not of a binding nature.

(b) All necessary steps have been taken. The question bank has already been made containing such questions which may be answered within the period of 90 minutes. If the duration of the examination is to be extended that would have an adverse effect consequently the eligibility criteria will be diluted which are achieved after putting in efforts for five months.

An attempt to prepare a question bank afresh would involve both time and money. According to him, the initial efforts involved cost of a sum of Rs.5 crore and any repetition may involve the State not only in the expenditure of a further sum of Rs.5 crore but also wastage of five more months. The last date fixed for relaxation by the NCTE is due to expire on March 31, 2016.

We have heard the submissions advanced by the learned counsel appearing for the parties and are of the opinion that the submission made by Mr Gupta that the initial extension by the letter dated April 9, 2013 was made by the NCTE Committee whereas the next extension made by the letter dated May 22, 2014 is not based on the decision of such Committee does not appear to us to have any substance.

We have already quoted in extenso both the letters dated April 9, 2013 and May 22, 2014 which we need not reiterate. The letter dated May 22, 2014 refers to an act of NCTE, by the letter dated April 9, 2013, by which the guidelines contained in clause 7 were amendment for a period of six months or until the report of the Committee is received, whichever is earlier. By the present letter dated May 22, 2014 the NCTE appears to have communicated that the extension shall be valid so long as the Committee

report is not received. Therefore, it is difficult to accept the submission that the extension made by the letter dated April 9, 2013 was by the Committee and the extension granted by the letter dated May 22, 2014 was not by the Committee having jurisdiction in the matter. By the letter dated May 22, 2014 all that was done was to extend the validity of the letter dated April 9, 2013. Both the letters were signed by the Deputy Secretary, Dr. Anil Shukla.

We are as such not impressed by the submission advanced by the learned Additional Advocate-General.

Learned Additional Advocate-General does not dispute that the Teachers' Eligibility Test was communicated to be held by the notice dated February 18, 2014 as per the guidelines of the NCTE vide Memo No.76-4/2010/NCTE/Acad. dtd. 11.02.2011. If the test is to be held as per the guidelines, it follows that the test has to be held as per the amendments made to the guidelines from time to time, unless the legality of such amendment has been challenged and has been found *ultra vires*.

The apprehension expressed by the learned Additional Advocate-General as regards wastage of time and money may be true, but that is no reason why the guideline issued by the nodal agency should not be followed. The apprehension as regards dilution of the eligibility criterion is equally without any basis, because the views of the policy makers expressed by the amendments to the guidelines made from time to time have to be accepted so long as the same are not declared illegal.

Admittedly, the guidelines dated February 11, 2011 have undergone a change by reason whereof the original duration of the eligibility test fixed at 90 minutes is no longer valid. Therefore, any examination to be held pursuant to the guidelines dated February 11, 2011 has to provide for duration of 150 minutes and not less than that.

For the aforesaid reasons, the appeal is allowed. The order under challenge is set aside. CAN No.8491 of 2015 is disposed of. There shall be no order as to costs.

Urgent certified xerox of this order, if applied for,
shall be given to the parties.

(Girish Chandra Gupta, J)

(Shib Sadhan Sadhu, J)