

(2001) 06 CAL CK 0037
In the Calcutta High Court
Case No : Writ Petition No. 9064 (W) of 2001

Md. Isahaque Ali and Another	Vs	APPELLANT
The State of West Bengal and Others		RESPONDENT

Date of Decision : 29-06-2001

Acts Referred:

Constitution of India, 1950 — Article 14, 21, 226

Citation : (2001) 2 CALLT 436 : (2001) 91 FLR 425

Hon'ble Judges : Ashim Kumar Banerjee, J

Bench : Single Bench

Advocate : Mr. Mohinoor Rahaman, for the Appellant; Mr. Suman Ghosh, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Banerjee, J.—The writ petitioners before me are the ex-census candidates. According to the writ petitioners, although they have crossed the age limit following the circular issued by the Labour Department the Employment Exchange is bound to sponsor their names irrespective of the age eligibility bar for the post of primary teacher.

2. The learned counsel, appearing for the writ petitioners has relied on the decision of the Apex Court reported in Government of Tamil Nadu and Another Vs. G. Mohammed Ammenudeen and Others, wherein the Apex Court relaxed the upper age restriction in case of Ex-census employees for the purpose of government service. Relying on that decision, learned counsel, appearing for the petitioners, prays for an interim order directing the authority concerned to allow the writ petitioners to participate at the interview.

3. Since it has been consistently held by this Court that relaxation of age cannot be done contrary to the statute, The Court of Law is not empowered to direct the authority concerned to allow the writ petitioners to participate in the selection process after having cross the upper age limit The Division Bench of our Court in

the case of Malda District Primary Schools Council & Anr. v. Faridur Rahaman. & Ors. reported in 2001 I CHN 204 held as follows:

"(ii) Similarly when the Rule says that candidates upto the age of 40 years are eligible, a candidate who has crossed the age of 40 years is ineligible. There is no power to relax the age limit. If such a candidate is employed and for that matter permitted to appear at the interview, will it not be unauthorised? Statutory law is binding law. Rule of law imposes an obligation to adhere to statutory laws. No Court can give a direction contrary to a statutory law. It is incorrect to assume that in Excise Superintendent's case (supra) Supreme Court gave any direction contrary to a law prescribed by statute."

Following the Division Bench Judgment, I am not inclined to pass any interim order.

Since the interview is going to be held on and from 15th July, 2001 this writ petition would become infructuous and it would be futile in keeping the writ petition pending in view of my observation as above.

Hence, this writ petition is dismissed in limine. There would be no order as to cost.

4. Petition dismissed