S/L 14
15.10.2026
Court No.24
SD

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 30672 of 2026

Abeda Khatoon & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Bikram Banerjee
Mr. Sudipta Dasgupta
Ms. Sagarika Goswami
Mr. Saikat Sutradhar

...for the Petitioners.

Mr. Lokenath Chatterjee, JSC
Ms. Sneha Chatterjee

...for the State.

Mr. Indranil Roy, Sr. Adv.
Mr. Nilanjan Bhattacharyya, Sr. Adv.
Mr. Sunit Kumar Roy

...for SSC.

1. Affidavit of service filed in Court today be kept with the records.

2. The petitioners are untainted in-service candidates who participated in 2nd SLST. They seek benefit of reservation in the Other Backward Classes (OBC) category.

3. The petitioners contend that the Commission is permitting editing of the application form of the candidates relying on the West Bengal School Service Commission (Selection for Appointment to the Posts of Assistant Teachers for Upper Primary Level of Classes [except Work Education and Physical Education], Classes IX-X and Classes XI-XII) Rules, 2025.

4. The Hon'ble Supreme Court on November 26, 2025 passed in Special Leave Petition (Civil) Diary No. 46049/2025 [Bibek Paria & Ors. vs. The State of West Bengal & Ors.], made it clear that '*the High Court shall also be mindful of the fact that the untainted candidates*

in the past selection were allowed to sit for the selection tests to be held afresh and their candidature cannot be adversely affected by application of the new Rules'.

5. The case made out by the petitioners is that when initially in the year 2025 the School Service Commission provided option to update the sub-category details, the petitioner did update the category and the sub-category details in the application form within the time limit stipulated by the Commission.

6. The sub-category in which they belong was earlier included in the list of OBC prior to 2010 and even after the Gazette notification was published on August 7, 2026. The petitioners belong to OBC category since birth.

7. By notification dated August 19, 2026 published by the Commission, it was notified to all concerned to update the OBC sub-category details between August 20, 2026 and August 25, 2026 failing which the candidature would automatically be treated under the General category.

8. By a further notice dated September 7, 2026, the editing window stood extended from September 10, 2026 to September 12, 2026.

9. The petitioners submit that since sub-category of the petitioners was already edited in the year 2025 in terms of the earlier notification of the Commission, the petitioners did not opt for editing the sub-category once again.

10. The petitioners apprehend that if they are not permitted the benefit of reservation, then they may lose their service.

11. In support of the submission that the State ought to prevent indirect discrimination the judgment delivered by the Hon'ble Supreme Court on September 4, 2025 in SLP (Civil) No.27139 of 2024 in the matter of ***Shreya Kumari Tirkey v. State of Jharkhand & Ors.*** has been relied upon.

12. It has been submitted that the act of the authority in publishing repeated notices for updating the sub-category of a candidate is misleading and at the same time ambiguous. The candidates are left confused and are not aware as to how many times a candidate would be required to update his/her category and sub-category details.

13. Prayer has been made to direct the Commission to treat the petitioners in the OBC category in accordance with the sub-category disclosed by the petitioners in the application made by the petitioners pursuant to the notice of the Commission dated July 30, 2025 and grant the benefit of reservation.

14. Learned senior counsel appearing for the School Service Commission opposes the submission made by the petitioners. He submits that no case has been made out by the petitioners that the sub-category as disclosed earlier has to be treated as the proper sub-category of the candidates.

15. All along the case made out by the petitioners is that they were unable to update the sub-category within the stipulated time period.

16. Candidates participating in a competitive examination ought to have been diligent and acted in terms of the notices published by the recruiting authority from time to time.

17. There are several candidates who may have missed the opportunity to update the sub-category details within the stipulated time period. If any relaxation is given to the petitioners, then the same would amount to discrimination with the other candidates.

18. It has been contended that it is practically impossible to ascertain the sub-category from the applications where the candidates have failed to update their category details in terms of the notice issued by the Commission.

19. It has also been contended on behalf of the Commission that the writ petition would not be maintainable as the petitioners failed to approach the authority for redressal of the grievances prior to filing the writ petition.

20. The Commission prays for dismissal of the writ petition.

21. Upon hearing the respective submissions made on behalf of all the parties and on perusal of the materials on record, it appears that, admittedly, the candidates updated the sub-category pursuant to the

earlier notice issued by the Commission in the year 2025.

22. It is also a fact that when the sub-category details were directed to be updated in the year 2025, the SLP filed by the State before the Hon'ble Supreme Court challenging the Division Bench order passed by this Court with regard to the OBC reservation issue was pending consideration.

23. After the State Government took a decision to withdraw the appeal before the Hon'ble Supreme Court and abide by the direction passed by the Hon'ble Division Bench of this Court, a fresh notification was published by the Backward Classes Welfare Department in the Gazette by striking down 113 classes out of the enlisted 179 classes from the OBC category by retaining only 66 of them as was there in the notification published in the year prior to 2010.

24. In view of the legal complications which arose in the State as regards reservation in the OBC category, the candidates had to update their category and sub-category details on more than one occasion.

25. The authority published notice on August 19, 2026 requesting all concerned candidates to specify their sub-category (in case of OBC), failing which they would be treated as unreserved (General) category candidates. The sub-category of the petitioners was admittedly included in the Gazette notification prevailing in the year 2010 and also included in the list published in 2026.

26. There is no doubt with regard to the OBC status of the candidates. It is only that the candidates failed to update their sub-category within the window prescribed for editing by the Commission.

27. The contention of the Commission that it is practically impossible to ascertain the sub-category details of the OBC category candidates who did not update their sub-category pursuant to the notification dated August 19, 2026 and September 7, 2026 cannot be brushed aside lightly.

28. It has also been pointed out that public notice in four local newspapers was published to bring it to the notice of all concerned, the requirement of updating the sub-category details of the candidates. Despite the aforesaid notifications and public notices, the candidates failed to update the sub-category status.

29. As the subject recruitment process is supposed to be concluded within a stipulated time period framed by the Hon'ble Supreme Court, the Commission would be required to take all effective steps to ensure that the process is over in terms of the mandate of the Supreme Court.

30. The submission of the petitioners that the repeated notices published by the Commission are ambiguous and confusing cannot be accepted.

31. The submission of the petitioners that the candidates got confused by the mandate in the notice dated 19th August, 2026 that the candidates who failed to update their sub-category details in terms of the

notification would be treated as unreserved (general) category as the same was updated in the earlier occasion also cannot be accepted. The petitioners thought that as the sub-category was already updated earlier and there is no change in the OBC status of the petitioner, accordingly, the editing was not done again.

32. The previous update was done in the year 2025 pursuant to the notice issued by the Commission in July 2025. The subsequent notification to update on 19th August, 2026 was issued only after the State published the fresh OBC category classes. The same would certainly require fresh updating. The previous updating of the candidates was in the OBC category either 'A' or 'B'. Right now there is only the OBC category, bereft of the category 'A' or 'B'.

33. Despite all the above, it appears that the sub-category of the candidates is still now retained in the OBC category published by the State. The candidates did update the category at one point of time pursuant to the notice issued by the Commission.

34. As the candidates were born in the OBC category accepted by the State, the benefit of reservation ought not to be taken away only because the candidates failed to update their sub-category details when such option was provided for the second time.

35. From the notice published by the Commission on September 7, 2026, it appears that the Commission took note of the various requests made from the candidates, who failed to update their sub-category

details within the stipulated time period. The Commission only for the purpose of enabling the genuine OBC candidates to update their category details again opened the editing window for three days.

36. As the petitioners claim to be genuine OBC candidates, accordingly, the Court grants leave to the petitioners to make a formal application before the Commission by October 22, 2026 annexing earlier reservation certificate, the updated application already filed by the petitioner in 2025 and the present category details before the Commission. The application shall be made both in the offline and in the online mode.

37. If the authority finds that the candidates are genuine OBC category candidates, then a decision may be taken by the Commission to permit the candidates to avail the benefit of reservation.

38. It is made clear that this order will not create a right in favour of the candidates to get the benefit of reservation. It is merely a request upon the Commission to ascertain the OBC status of the candidates; and if the candidates are actually found to be genuine OBC candidates and had already updated the sub-category details on an earlier occasion, then the benefit of reservation may be granted to them.

39. The Commission shall keep in mind that the petitioners are untainted in-service candidates and they lost their job in view of the order passed by the Court. They ought not to be put in any adverse

position in line with the dictate of the Hon'ble Supreme Court in the matter of *Bibek Paria (supra).*

40. A decision shall be taken by the Commission within ten working days after opening of the office after the ensuing Laxmi Puja.

41. The writ petition stands disposed of.

42. Parties to act on the basis of the server copy of this order duly downloaded from the official *website* of this Court.

43. Certified server copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)