

# LIBRARY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

O. A. No. 351/0095/A N of 2019

IN THE MATTER OF:

1. LITON BAROI, son of Shri Parimal Baroi, aged about 31 years residing at Nabagram, Diglipur, North and Middle Andaman, Pin-744202,
2. VIJAI DAS, son of Shri Dilip Das, residing at R.K. Gram, Diglipur, North and Middle Andaman, Pin-744202.
3. BETHIKA SIKDHAR, daughter of Shri Ashok Sikdhār, residing at Nabagram, Diglipur, North and Middle Andaman, Pin-744202
4. POOJA SAMADDER, daughter of Shri Shyamal Samadder, residing at Sitanagar, Diglipur, North and Middle Andaman, Pin-744202
5. ANUTHOSH KUMAR HALDER, son of Shri S.C. Halder, residing at R.K. Gram, Ward

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No. 4, Diglipur, North and Middle  
Andaman, Pin-744202

6. SURAJ KUMAR MONDAL, son of Shri Purna Chandra Mondal, residing at Ram Nagar near Middle School, Neil Island South Andaman, Pin-744104.
7. PASHAHINA, daughter of P. Ali, residing at Village and Post Office- Calicut , Port Blair, South Andaman, Pin-744105.
8. MONIKA RANI KARMAKAR, daughter of Shri Sanbtosh Karmakar, residing at Police Line, Post Office- Shadipur, Port Blair, South Andaman, Pin-744106.
9. NARATTAM DAS, son of Shri Jagadish Das, residing at V.S. Pally, Diglipur, North and Middle Andaman, Pin-744202.
10. PRITISH GAYALI, son of Shri Arabinda Gayali, residing at Village and Post Office- Nimbutala North and Middle Andaman, Pin-744204.

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11. RATTAN BISWAS, son of Shri Surja Biswas, residing at Sitanagar, Diglipur, North and Middle Andaman, Pin-744202

12. ANITA BISWAS, daughter of Shri Dinobandhu Biswas, residing at C/o. Sunil Mondal, MET Observatory, Shadipur, Port Blair, Pin-744106.

13. SAMEER KULU, son of Shri Suresh Kulu, residing at Krishna Nagar, Havelock South Andaman, Pin-744211.

14. SANJIB PAUL, son of Shri Susanta Paul, residing at Swarajgram Diglipur, North and Middle Andaman, Pin-744202

15. SUSAEN SARDAR, son of Shri Babatosh Sardar, residing at Village and Post Office- Subashgram Diglipur, North and Middle Andaman, Pin-744202

16. SANGITA BISWAS, daughter of Shri Nirmal Kumar Biswas, residing at Village and Post Office- Uttara Kadamtala

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North and Middle Andaman, Pin-  
744209.

17. M. MUBASHIRA, daughter of Late M.A.

Majeed, residing at Haddo, B. K. Lane,  
Seashore Road, Ward No. 2, Port Blair-  
744102.

18. NAZNEEN BIBI, daughter of Mohd.

Ibrahim, residing at 280, M.G. Road,  
Lamha Line, behind Tandoor Hotel,  
South Andaman, Pin-744106.

19. PROTIBA DAS, son of Shri Jagadish Das,

residing at C/o Indrojit Paul, Village-  
Manglutan, Homphrigunj, Port Blair, Pin-  
744105.

20. BISWAJIT PAUL, son of Shri Uttam Paul,

residing at Village- Harinagar, Post  
Office- Bill Ground, North and Middle  
Andaman, Pin-744201.

21. SEEMA C. REDDY, daughter of Shri S.  
Chander Reddy, residing at Opposite

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Zilla Parishad Coimunity Hall, Ward No.

23, Prothrapur, Port Blair Pin-744103.

22. KAMARUN NISA, daughter of Shri K.

Abdulla, residing at C/o. HM Store,

Nayapuram, Wimberlygunj, South  
Andaman, Pin-744206.

23. T. NARESH KUMAR, son of Shri T.

Malakonda Raidu, residing at Police Line,  
Port Blair, Pin-744106.

24. PRIYANKA MISTRY, daughter of Shri

Suresh Mistry, residing at 49 'B', Street,

Buniyadabad, South Andaman, Pin-  
744102.

25. AMIT KUMAR DEY, son of Shri Anil

Kumar Dey, residing at Village-

Gövindapur, Post Office- Nimbudera,  
North and Middle Andaman, Pin-  
744201.

...Applicants

-Versus-



1. UNION OF INDIA service through the  
Secretary, Government of India,  
Ministry of Human Resource  
Development, Shastri Bhawan, New  
Delhi- 110001.
  
2. THE LIEUTENANT GOVERNOR,  
Andaman & Nicobar Islands, Raj Niwas,  
Port Blair-744101 ;
  
3. THE ANDAMAN & NICOBAR  
ADMINISTRATION service through the  
Chief Secretary, Andaman & Nicobar  
Administration, Secretariat Complex,  
Port Blair-744101;
  
4. THE SECRETARY (EDUCATION),  
Andaman & Nicobar Administration,  
Secretariat, Port Blair-744101;
  
5. THE DIRECTOR OF EDUCATION,  
Andaman & Nicobar Administration  
VIP Road, Port Blair-744103;

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6. THE DEPUTY DIRECTOR OF EDUCATION

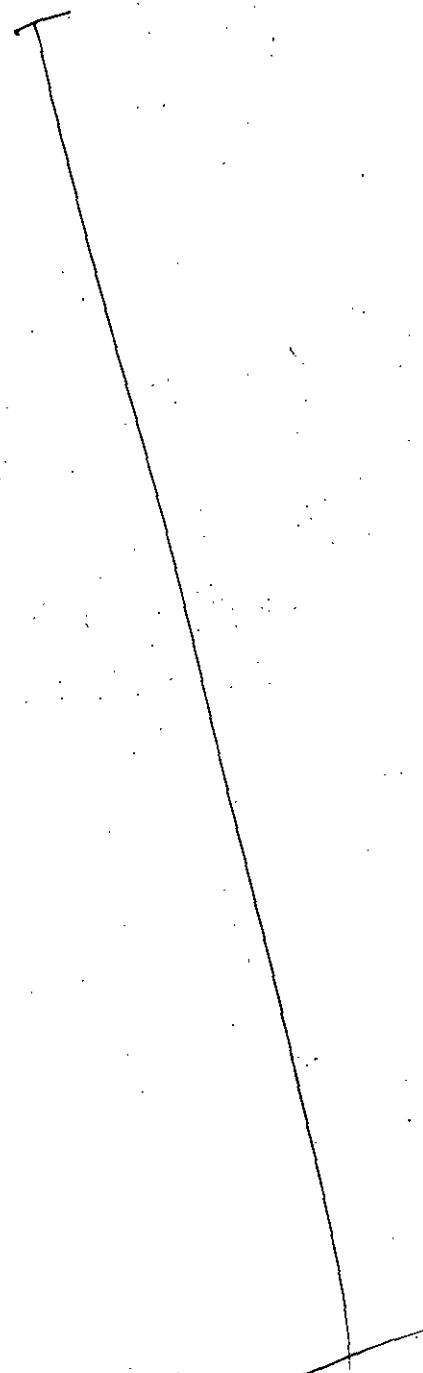
(PERSONNEL), Andaman & Nicobar

Administration, VIP Road, Port Blair-

744103.

...Respondents.

ABD



CENTRAL ADMINISTRITION TRIBUNAL  
KOLKATA BENCH

O.A./351/0095/2019  
MA/351/60/2019

Date of Order: 23.01.2019

Coram: Hon'ble Mr. A.K. Patnaik, Judicial Member

Liton Baroi & Ors. -VS- Education

For the Applicant(s): Mr. P.C. Das, Counsel  
For the Respondent(s): Mr. R. Halder, Counsel

**ORDER (ORAL)**

A.K. Patnaik, Member (J):

Mr. P.C. Das, Ld. Counsel for the applicants, is present.

2. Mr. R. Halder, Ld. Counsel, appeared and submitted that he has instruction to appear for Andaman & Nicobar Administration. Heard Ld. Counsel for both the sides in extenso.
3. M.A. No. 60/2019 filed for joint prosecution of this case is allowed and disposed of.
4. This O.A. has been filed under Section 19 of the Administration Tribunals Act, 1985 with the following prayers:

"8(a) Leave may be granted to the applicants to file this application jointly under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 as the applicants have a common grievance and all of them aggrieved against cancellation of the selection process those who are been declared successful in the same selection process for appointment to the post of Primary School Teacher;

b) To quash and/or set aside the impugned Press Note dated 11<sup>th</sup> January, 2019 being File No., 8-10(1427)/Edn/CCB/PST-Rect/2018 being Annexure A-6 of this original application issued by the Deputy Director of Education (Personnel) who is the incompetent authority by which the entire selection process for the post of Primary School Teacher has been cancelled without assigning any reason by depriving the present applicants those who have declared successful candidates and their names were enlisted in the Merit List after fulfilling all the eligibility criteria prescribed by the Education Department in terms of the notification dated 16.07.2018.

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c) To declare that the decision of the Education Department of Andaman and Nicobar Administration vide Press Note dated 11<sup>th</sup> January, 2019 is wholly arbitrary and illegal because they themselves admitted in Press Note published on 19<sup>th</sup> December, 2018 in the Daily Telegrams that the process of recruitment to the post of Primary School Teacher has been conducted in a free, fair, transparent and objective manner. After such declaration by way of paper notification, the cancellation of the selection process to the post of Primary School Teacher is wholly arbitrary and illegally and which may be liable to be quashed and/or set aside in the eye of law by restoring the entire selection process in terms of the notification dated 16.07.2018 and to hold that the merit list which they have published is in accordance with the Recruitment Rules and on the basis of the assessment of marks obtained by them in terms of the Merit List the present applicants will get appointment.

d) To quash and/or set aside the cancellation order of selection process for recruitment to the post of Primary School Teacher and direct the respondent authority to issue the appointment orders in favour of the applicants those who are selected candidates and their names enlisted in the Merit List to the post of Primary School Teacher immediately in terms of the Recruitment Notification dated 16.07.2018.

5. Ld. Counsel for the applicants at the outset submitted that the applicants have passed the Central Teacher Eligibility Test and are holding Diploma in Education/Junior Basic Training. Recruitment Rules were notified by the Andaman and Nicobar Administration on 07.03.2011 for the post of Primary School Teacher. In pursuance of the notification dated 16.07.2018 issued for recruitment to the post of Primary School Teacher by the Deputy Director Education (Personnel), Andaman and Nicobar Administration (Respondent No. 6) against a total number of vacancies of 224 including General Caste, OBCs and STs, applicants applied and after a due recruitment process they were selected and their names were listed in the Provisional Merit List dated 17.12.2018. Subsequently, the certificates of the applicants were also verified. The grievance of the applicants is that while they were waiting for appointment, suddenly a

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Press Note was issued on 11.01.2019 by the Deputy Director of Education (Personnel) (Respondent No. 6) by which the entire selection process for the post of Primary School Teacher has been cancelled without assigning any reason. By drawing my attention to the Press Note dated 11.01.2019, Mr. Das submitted that this notification itself runs contrary to the spirit of the judgment of the Hon'ble Supreme Court of India in the case of **East Coast Railway and Another -Vs- Mahadev Appa Rao and Others** reported in (2010) 7 SCC 678 wherein the Hon'ble Apex held that "Recruitment process – Examination/Selection test – Cancellation of – Judicial review on the ground of arbitrariness – Held, though a candidate who has passed an examination or whose name appears in select list does not have an indefeasible right to be appointed, yet appointment cannot be denied arbitrarily, nor can selection test be cancelled without giving proper justification – Court can give appropriate directions where decision is found to be arbitrary." The Hon'ble Supreme Court also held in the case of **Union of India and Others -vs- Rajesh P.U. Puthuvalonikathu and Another** reported in (2003) SCC (L&S) Page 1048 wherein the Hon'ble Apex Court also held that – Recruitment process – Selection – Cancellation of en bloc – Held, where from out of the selectees it was possible to weed out the beneficiaries of irregularities or illegalities, there was no justification to deny appointment to those selected candidates whose selection was not vitiated in any manner – On facts, the decision cancelling the selections in their entirety was rightly held to be irrational by High Court."

The applicants have already submitted representation on 16.01.2019 under Annexure A/7 to the Respondent Nos. 2, 3, 4 and 5.

6. After going through the representation as well as judgment rendered by the Hon'ble Supreme Court of India in the case of **East Coast Railway**

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and Another -Vs- Mahadev Appa Rao and Others reported in (2010) 7 SCC 678 and in the case of Union of India and Others -vs- Rajesh P.U. Puthuvalonikathu and Another reported in (2003) SCC (L&S) Page 1048, I am of the view that the applicants' grievance are quite genuine. Therefore, the impugned cancellation order vide Press Note dated 11<sup>th</sup> January, 2018 being File No. 8-10(1427)/Edn/CCB/PST-Rectt/2018 which is appearing at Annexure A-6 of the original application is wholly arbitrary and illegal because no specific reason has been assigned in the said cancellation order and ,therefore, I quash and/or set aside the same by applying ratio of two decisions of the Hon'ble Supreme Court of India referred as above.

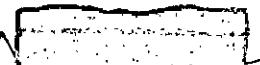
7. The applicants have also raised their grievance in their representation dated 16.01.2019 that their names appeared in the Merit List, which was published by the respondent authority themselves in their official website which has been annexed at Annexure A/3 of the Original Application, and they are waiting for issuance of appointment order for the post of Primary School Teacher in terms of the notification dated 16.07.2018 as per the commitment made by the respondent authority appearing at Annexure A/4 of the Original Application, which was published in the Daily Telegrams Newspaper on 18.12.2018, and as per their declaration, which was also notified in the Daily Telegrams Newspaper dated 19<sup>th</sup> December, 2018 (Annexure A/5) of the Original Application that the process of recruitment to the post of Primary School Teacher has been conducted in a free, fair, transparent and objective manner. In view of such declaration made by the respondent authority themselves, which was published in the Daily Telegrams Newspaper and which is an official newspaper of the Andaman and Nicobar Administration, I am of the view that as the names of the applicants already appeared in the Merit List published by the respondent



authority being Annexure A/3 of the Original Application, therefore, the respondent authority are further directed to issue appointment orders in favour of the present applicants without any further delay. Mr. P.C. Das, Learned Counsel on behalf of the applicants also submitted that the respondent authority is going to re-advertise the post by cancelling the selection process. I have already held that in view of the judgement of Hon'ble Apex Court the impugned cancellation order of the selection process to the post of Primary School Teacher without assigning any reason is illegal; therefore, the question of re-advertising the post cannot be sustainable in the eye of law. I also make it clear that the entire exercise in respect of issuance of the appointment orders in favour of the applicants shall be completed within four (4) weeks from the date of communication of this order and I also make it clear that I have passed this order in respect of the 25 candidates who are party in this Original Application.

8. With the aforesaid observation and direction, this OA has been disposed of. No costs.

9. Since it was informed by the Learned Counsel on behalf of the applicants during the course of hearing that the respondent authority is going to re-advertise the post on or about 28.01.2019, therefore, the urgent copy of this order may be supplied to both the parties by 25.01.2019 and the Registry is directed to send one copy of this order to all the respondents for that the Learned Counsel on behalf of the applicants shall deposit a necessary cost for sending such copy through Registry within a week.



(A.K. Patnaik)  
Member (J)