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Mohabul Islam & Ors vs The State Of West Bengal & Ors on 31 October, 2026

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Calcutta High Court (Appellete Side)

Mohabul Islam & Ors vs The State Of West Bengal & Ors on 31 October, 2026

31.10.2026

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Ct.-7

(SD/NMD/MD)

WPA 31572 of 2026

Mohabul Islam & Ors.

-Vs-

The State of West Bengal & Ors.

Mr. Sudipta Dasgupta, Adv.

Mr. Sagar Dey, Adv.

Mr. Suryatapa Das, Adv.

Ms. Sinjini Chakraborty, Adv.

....for the Writ Petitioners

Mr. Mohit Karati, Adv. (VC)

....for Petitioner no. 1

Sk. Raju Ali, Adv. (VC)

....for Petitioner no. 2

Mr. D. N. Roy, Ld. GP

Mr. Guddu Singh, Adv. (VC)

Mr. Sourav Haldar, Adv.

...for the State-Respondent Nos. 1 to 3

Mr. Subir Sanyal, Ld. Sr. Adv.

Mr. Ratul Biswas, Adv.

Mr. Koushik Chowdhury, Adv.

....for WBBPE

Mr. Chitta Priya Ghosh, Adv.

Mr. Somesh Kumar Ghosh, Adv.

Mr. Kuntal Roy, Adv.

Mr. Sourojit Mukherjee, Adv.
....for the intervenors
1. Affidavit-of-service, filed by the petitioners in Court today, is taken on record.
2. The petitioners, by filing this writ petition, have, inter alia, prayed for the following relief:
"b. A Writ and/or in the nature of Mandamus commanding the respondent authorities their agents, servants, subordinates, employees and/or assignees herein to set aside

and quash and/or rescind and/ or withdraw the Notification being Memo No. 3536/ WBBPE/ 2026/59R-09/2024 dated 14th October, 2026; alternatively a Writ and/or in the nature of Mandamus commanding the respondent authorities and their agents, servants, subordinates, employees and/or assignees herein to modify and/or amend the Notification being Memo No. 3536/ WBBPE/ 2026/59R-09/2024 dated 14th October, 2026 by allowing the Petitioners to update the EWS Category in respect of Recruitment Notification being Memo No. 2141/ WBBPE/ 2025/59R-09/2024 dated 25th September, 2025 read with the Memo No. 2367/ WBBPE/ 2025/59R-09/2024 dated 19th November, 2025."
3. The facts of the petitioners, as set forth in the instant writ petition, are as follows:
By recruitment notifications dated 25th September, 2025 and 19th November, 2025, the West Bengal Board of Primary Education (hereinafter referred to as "the said Board") invited applications from eligible candidates for recruitment of Assistant Teachers in Government-aided / Government-sponsored

Primary / Junior Basic Schools in the State, in accordance with the provisions of the West Bengal Primary School Teachers Recruitment Rules, 2016 for filling up of 13,421 vacant posts.

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4. The petitioners applied for the said posts as OBC-A or OBC-B candidates. During the pendency of the selection process, a Division Bench of this Court, by a judgment and order dated 17th June, 2025 in WPA (P) 111 of 2025 (
Amal Chandra Das Vs. State of West Bengal & Ors.
) and in other writ petitions, inter alia, passed the following direction:

"For the reasons as discussed above, the operation of the notification no. 917-BCW/MR-33/2025 dated 8 th May 2025, notification nos. 1056-BCW/MR-33/2025 (Pt. I) and 1057-BCW/MR-38/2025 dated 27th May, 2025, notification nos. 1106-BCW/MR-38/2025 and 1107-BCW/MR-38/2025 dated 3rd June, 2025 and notification no. 912/Secy/BCW dated 13th June, 2025 and all other consequential steps taken shall remain stayed till the end of July, 2025 or until further orders, whichever is earlier."

5. Subsequently, the State of West Bengal, challenging the judgment and order dated 17th June, 2025, filed a Special Leave Petition, being SLP (C) No. 17422 of 2025 (The State of West Bengal Vs. Purobi Das & Ors.). The said Special Leave Petition was taken up for consideration by the Hon'ble Supreme Court on 28th July, 2025 and the

Hon'ble Supreme Court, by an order, stayed
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the operation of the judgment and order dated 17th June, 2025 passed by the Division Bench of this Court.

6. Mr. Sudipta Dasgupta, learned counsel appearing for the petitioners, referred to a notification dated 18th May, 2026, issued by the Backward Classes Welfare Department, Government of West Bengal, whereby the notifications dated 8th May, 2025, 27th May, 2025 and 3rd June, 2025 along-with notification dated 12th June, 2025 were withdrawn. On the same day, the Backward Classes Welfare Department, Government of West Bengal, issued a notification dated 18th May, 2026 whereby a list of OBCs was published consisting of 66 classes to avail 7% reservation in the services and posts under the Government of West Bengal.

7. Mr. Dasgupta, further referred to an order dated 14th July, 2026, passed in the aforesaid SLP, whereby the Hon'ble Supreme Court dismissed the SLP preferred by the State of West Bengal and West Bengal Commission for Backward Classes as withdrawn.

8. Mr. Dasgupta also placed reliance on a notification dated 14th October, 2026 issued by the said Board. By the said notification the
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Board extended an opportunity to those candidates who had applied under OBC-A and OBC-B categories for recruitment to the said posts to update or modify their respective categories during the period from 14th October, 2026 to 31st October, 2026. It was indicated that failure to update or modify their respective categories would result in the candidates being automatically treated as the unreserved category candidates.

9. Mr. Dasgupta submits that, after 18th May, 2026 and prior to 14th October, 2026, the petitioners applied for EWS certificates before

the appropriate authority and having considered their gross annual income, the appropriate authority issued certificates to the petitioners declaring them to be persons belonging to Economically Weaker Sections.

10. The petitioners are aggrieved by a decision of the said Board in not treating them as EWS category candidates and in not allowing them to update or modify their new status as EWS. Mr. Dasgupta submits that, in view of the notification dated 18th May, 2026, they are no longer OBC category candidates and, therefore, it is the duty and

an obligation on the part of the said Board to treat them as EWS category candidates.

11. Per contra, Mr. Subir Sanyal, learned senior counsel for the said Board, submits that the notification dated 18th May, 2026 is a policy decision of the Government, and the Board followed such policy decision. Pursuant to such notification dated 18th May, 2026, the Board issued the notification dated 14th October, 2026 allowing the candidates who had earlier applied under OBC-A or OBC-B categories, to update or modify their categories, so that the candidates would not suffer any prejudice in future.

12. Mr. Sanyal further submits that allowing the prayer of the petitioners at this stage would, in effect, amount to granting the final relief. He intends to file an affidavit in connection with the instant writ petition.

13. The issues involved in this writ petition are whether the petitioners have a right, in view of the change in circumstances during the pendency of the selection process to seek a direction upon the said Board to treat them as EWS category candidates instead of unreserved category candidates, and whether the Board has a corresponding duty to allow

such prayer of the petitioners. The aforesaid issues cannot be decided without calling for affidavits.

14. Accordingly, let affidavit-in-opposition be filed by the respondents within a period of three weeks after the Puja Vacation. Reply, if any, be filed within a week thereafter.

15. Mr. Chittapriya Ghosh, learned advocate appears on behalf of some of the candidates. He is at liberty to file an appropriate application for being added as party-respondents.

16. All steps taken in the meantime shall abide by the result of the writ petition.

17. List this matter after expiry of the aforesaid period before the Regular Bench.

(Arjun Ray Mukherjee, J.)