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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9866/2016**

BHARTI PAPNAI PANDEY

..... Petitioner

Through Mr. Ashok Agarwal & Mr. Ashutosh
Dixit, Advocates.

versus

**DELHI SUBORDINATE SERVICES SELECTION BOARD (DSSB)
& ORS.**

..... Respondents

Through Mr. Devesh Singh, ASC & Mr. Vinod
Kumar Bhati, Advocate for GNCTD.
Mr. Raghvendra Pandey, Advocate for respondent
Nos. 3 and 8-UIO & NCTE.
Ms. Reema Khorana, Advocate for respondent No.
5-SDMC.
Mr. Rajan Tyagi, ASC for respondent No. 6-
EDMC.
Ms. Surbhi Mehta, Advocate for Mr. Amit Bansal,
Advocate for respondent No. 7-CBSE.
Ms. Bharathi Raju, CGSC & Ms. C. Rubavathi,
Advocate for UIO.
Mr. Parvinder Chauhan & Mr. Nitin Jain,
Advocates for respondent-North DMC.

W.P.(C) 9894/2016

BABITA

..... Petitioner

Through Mr. Ashok Agarwal & Mr. Ashutosh
Dixit, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through Mr. Devesh Singh, ASC & Mr. Vinod

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been compared and the digital data is as per
the physical file and no page is missing.

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Kumar Bhati, Advocate for GNCTD.
Mr. Ajay Digpaul, CGSC & Ms. Mohita,
Advocate for respondent No. 4-UOI.
Mr. Raghvendra Pandey, Advocate for respondent
Nos. 4 and 6-UOI & NCTE.
Ms. Surbhi Mehta, Advocate for Mr. Amit Bansal,
Advocate for respondent No. 5-CBSE.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER
26.10.2016

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It appears that the order dated 12th February, 2015 passed in OA No. 3225/2013 titled *Deep Chandra Tiwari and Others versus Delhi Subordinate Services Selection Board and Others* and in connected matters was not challenged by any party. Operative portion of the said order reads as under:-

“6. In view of the aforementioned judgment, no infirmity can be found in rejection of the candidature of the applicants. Nevertheless, the respondents could not have provided in the impugned guidelines that the Central Govt. could not have issued notification relaxing the essential qualification prescribed for the appointment to the post of Teacher including condition of passing the CTET/TET. Such guideline is contrary to the provision of Section 23(2) of Right of Children for Free and Compulsory Education Act, 2009, which reads thus :-

“23(2) Where a State does not have adequate institutions offering courses or training in

teacher education, or teachers possessing minimum qualifications as laid down under sub-section(1) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified in that notification.

7. It is stare decisis truth that no administrative guidelines can override or modify the statutory provisions and any such guidelines have to be treated as nullity.

8. In view of the aforementioned, we set aside Clause 4 of the impugned guide lines issued vide No.1-15/2010-EE-4 dated 08.11.2010 (Annexure A/1). It would be open to the respondents to take up the matter for exercise of the powers conferred upon the Central Government under Section 23(2) of the Right of Children to Free and Compulsory Education Act, 2009, as per procedure laid down in the aforementioned guidelines. The OA stands disposed of. No costs."

2. The respondent authorities were, therefore, required to examine the case whether any relaxation was required to be granted in light of the provisions of Section 23(2) of the Right of Children for Free and Compulsory Education Act, 2009. The Tribunal had struck down paragraph 4 of the guidelines under Section 35 of the aforesaid Act dated 8th November, 2010, which had stipulated that condition for passing of TET shall not be relaxed.

4

3. Learned counsel for the petitioner has drawn our attention to order dated 11th January, 2016 passed in Writ Petition (C) No. 189/2016 titled *Neelam versus Government of NCT of Delhi and Others*. The grievance of the petitioner in the said writ petition was that there has been non-compliance of the directions given by the Tribunal and delay is causing prejudice. Accordingly, the Court had directed as under:-

“8. We find the prayer of the counsel for the petitioner to be fair and just. Accordingly, we direct the respondents no.1 and 2 to comply with the order dated 12.02.2015. We also direct the respondents no.1 and 2 to consider the case of the petitioner within a period of eight weeks from the date of receipt of this order in accordance with law. This order is without prejudice to the rights and contentions of the parties.”

4. We perceive and believe the aforesaid directions are not case specific or a candidate specific as the relaxation if it is to be granted under Section 23(2) would be applicable generally and not to a particular candidate.

5. With the aforesaid observations, we dispose of the present writ petitions.

4-11-16
SANJIV KHANNA, J.

Sunita Gupta
SUNITA GUPTA, J.

OCTOBER 26, 2016
VKR ✓