

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE JUSTICE SRI MANOJ KUMAR TIWARI

AND

HON'BLE JUSTICE SRI PANKAJ PUROHIT

WRIT PETITION (S/B) No. 313 OF 2023

12TH September, 2023

Gopal Singh Gauniya & others. Petitioners

Versus

State of Uttarakhand & others. Respondents

Counsel for the petitioner	:	Mr. Vinay Kumar & Mr. Rajeev Sharma, the learned Counsels
Counsel for respondents	:	Mr. Puran Singh Bisht, learned Additional Chief Standing Counsel for the State/respondent nos. 1 to 4.
	:	Ms. Neeti Rana, learned counsel for respondent no. 5.
	:	Mr. Yogesh Kumar Pacholia, learned counsel for respondent no. 6.
	:	Mr. Shashank Upadhyay, learned counsel for respondent no. 7.
	:	Mr. Dushyant Mainial, learned counsel for private respondents.

The Court made the following:

JUDGMENT : (Per Sri Manoj Kumar Tiwari, J.)

By means of this writ petition, petitioners have sought the following reliefs:-

“(i) Issue a writ, order or direction in the nature of Certiorari calling for the records and quashing the List of the Candidates published by the District Education Officer, Elementary Education, Champawat on 27.06.2023 (Annexure 22 to the writ petition), whereby the private Respondents and other similarly situated candidates have been declared eligible to participate in the counseling/document verification to be held for the post of Assistant Teacher (Special Education) based on their UTET-I/CTET-I certificate.

(ii) Issue a writ, order or direction in the nature of Mandamus directing the District Education Officer,

Elementary Education, Champawat to revise the list of the candidates published on 27.06.2023 (Annexure No. 22 to the writ petition) by excluding the candidates whose names have been included in the eligibility list based on their UTET-I/CTET-I certificate obtained on the basis of B.Ed./B.Ed. (Special Education) qualification.

(iii) Issue a writ, order or direction in the nature of Mandamus directing the Respondent no. 3 to issue necessary directions to the Subordinate authorities to verify the UTET-I/CTET-I of the private Respondents and similarly situated persons before offering appointment as Assistant Teacher (Special Education), Govt. Primary School inasmuch as till date the Information Bulletin issued for conducting CTET-I and UTET-I examination does not prescribe B.Ed. (Special Education as one of the minimum qualification for appointment on the post of Teacher for Class 1 to 5."

2. It is not in dispute that petitioners as well as private respondents have successfully completed B.Ed. (Special Education) Course from institutes which are recognized by Rehabilitation Council of India. Petitioners as well as private respondents responded to advertisements issued by District Education Officer of various districts within State of Uttarakhand, whereby applications were invited for appointment to the post of Assistant Teacher (Special Education) in different Government Primary Schools within the State. In the advertisement, requisite qualification for appointment as Assistant Teacher (Special Education) in Government Primary Schools has been indicated. English translation of relevant clause of the advertisement is reproduced below:-

"Such permanent resident of Uttarakhand State, (i) who possess Bachelor's Degree in Graduation from University established by law in India.

II. As per Government Order No. 1/109430/XXIV-A-1/2023-12983/2022 dated 25.03.2023, obtained D.Ed. Special Education recognized by Rehabilitation Council of India

(R.C.I) OR B.Ed. Special Education OR Equivalent Diploma recognized by R.C.I. and has qualified the Teachers Eligibility Test-first conducted by the State Government/Central Government as per the guidelines issued National Council for Teacher Education (appointment will be given only on production of original marksheet).

III. Assistant Teacher (Special Education) who are to be appointed in this manner for teaching Children with Special need, after appointment are compulsorily required to complete six months bridge course Elementary Education recognized by NCTE.

3. It is not in dispute that none of the petitioners have qualified Teacher's Eligibility Test conducted by State/Central Government; while, the private respondents have qualified Teacher's Eligibility Test conducted by Central Government between 2018-2022.

4. The stand taken by petitioners is that as per the applicable guidelines issued by National Council for Teachers Education, candidates possessing B.Ed. (Special Education) qualification were not eligible for participating in UTET-I/CTET-I examination, therefore, according to them, private respondents cannot be given any benefit on the strength of UTET-I/CTET-I certificate possessed by them.

5. It is contended by learned counsel for petitioners that the concerned agency which conducted UTET-I/CTET-I examination had clearly indicated in the Information Bulletin that only B.Ed. qualification holder can appear in UTET-I/CTET-I examination. According to him, private respondents, who do not possess B.Ed. qualification but

possess B.Ed. (Special Education), are not eligible to participate in UTET-I/CTET-I, therefore, the candidature of private respondents is liable to be rejected. They submit that the result declared by selecting body deserves to be quashed and the merit list needs to be redrawn.

6. Mr. Shashank Upadhyay, learned counsel for respondent no. 7 submits that Central Board of Secondary Education (CBSE) is the agency nominated by the Central Government for holding CTET examination, which conducts the said test as per the guidelines issued by National Council for Teachers Education. He, however, conceded that CBSE has issued CTET-I certificate in favour of some of the private respondents.

7. Ms. Neeti Rana, learned counsel appearing for respondent no. 5 also submitted that Uttarakhand Education Board has issued UTET-I certificate in favour of such of the private respondents, who do not possess CTET-I certificate.

8. Thus, from the stand taken by learned counsels appearing for Uttarakhand School Education Board & Central Board of Secondary Education, one thing is clear that all the private respondents possess the requisite certificate of passing Teacher Eligibility Test.

9. Mr. Dushyant Mainali, learned counsel for private respondents contends that private respondents were eligible to appear in UTET-I/CTET-I examination, therefore, they were permitted to appear in the said test by the examining body without raising any objection; some of the petitioners also participated in the UTET-I/CTET-I examination, however, they failed.

10. It is not the case of 4 petitioners that UTET-I/CTET-I

certificate issued in favour of private respondents have been cancelled or set-aside by the competent authority. The only contention raised by learned counsel for petitioners against the candidature of private respondents is that since private respondents possess B.Ed. (Special Education) qualification and the notification issued by National Council of Teachers Education on 28.06.2018, opened window for B.Ed. qualification holders alone, therefore, private respondents, who hold B.Ed. (Special Education) qualification were not eligible for appearing in UTET-I/CTET-I examination.

11. We are not impressed by the said contention. As per the earlier notification issued by NCTE, D.Ed./D.El.Ed. (Special Education) qualification holders were eligible for participating in UTET-I/CTET-I examination. However, by the subsequent notification dated 28.06.2018, B.Ed. qualification holder were also made eligible for participating in the said test. Once B.Ed. qualification holders are made eligible to participate in UTET-I/CTET-I examination, then B.Ed. (Special Education) qualification holders cannot be excluded, as B.Ed. is the genus and B.Ed. (Special Education) is the species. Even otherwise also, the CTET-I/UTET-I certificate issued in favour of private respondents is not under challenge and it has not been set-aside by any authority, therefore, there is no scope for interference in the matter.

12. The writ petition thus fails and is dismissed.

MANOJ KUMAR TIWARI, J.

PANKAJ PUROHIT, J.

Dated: 12TH September, 2023
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