



2025:UHC:10087-DB

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE MR. G. NARENDAR

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

Writ Petition (S/B) No. 483 of 2025

13th November, 2025

Rakesh Prasad Uniyal

-----Petitioner

Versus

State of Uttarakhand and others

-----Respondents

Presence:-

Mr. Siddharth Bhatia, learned counsel for the petitioner through V.C. with Mr. Subhash Joshi, learned counsel for the petitioner. Mr. Gajendra Tirpahti, learned Standing Counsel for the State of Uttarakhand.

Mr. Pankaj Miglani, learned counsel for the petitioner no.2 through V.C.

JUDGMENT : (per Mr. SUBHASH UPADHYAY, J.)

The petitioner has filed the present Writ Petition with the following prayer:

"i. Issue a writ, order or direction in the nature of certiorari quashing the impugned Government order dated 15.10.2025 issued by respondent no. 1 (contained as Annexure No. 6 to this Writ Petition).

ii. Issue a writ, order or direction in the nature of certiorari quashing the cancellation of advertisement dated 31.10.2025 issued by respondent no. 2 (contained as Annexure No. 7 to this Writ Petition).



iii. Issue a writ, order or direction in the nature of Mandamus commanding and directing the respondents to conduct the Departmental Promotion Examination for Principals forthwith, vide Notification dated 19.09.2025 in the interest of justice, without prejudice to the anyone."

2. The petitioner who is working as Lecturer; in pursuance to an advertisement published by the Uttarakhand Public Service Commission; applied for the post of Principal which is to be filled up by the Limited Departmental Examination. The petitioner is aggrieved by the decision taken by the Uttarakhand Public Service Commission on 31.10.2025, by which, the said limited departmental examination has been cancelled.

3. Learned counsel for the Uttarakhand Public Service Commission submits that the decision to cancel the examination was taken in pursuance to the orders passed by the State Government of Uttarakhand on 15.10.2025 and 30.10.2025.

4. Learned counsel for the State submits that the decision dated 15.10.2025 was taken by the State Government in view of the Orders passed by the



Hon'ble Apex Court in the case of **Anjuman Ishaat-e-Taleem Trust vs. State of Maharashtra and others**, reported in **2025 SCC Online SC 1912**, wherein para 216 to 219 read as under:

“216. Bearing in mind their predicament, we invoke our powers under Article 142 of the Constitution of India and direct that those teachers who have less than five years' service left, as on date, may continue in service till they attain the age of superannuation without qualifying the TET. However, we make it clear that if any such teacher (having less than five years' service left) aspires for promotion, he will not be considered eligible without he/she having qualified the TET.

217. Insofar as in-service teachers recruited prior to enactment of the RTE Act and having more than 5 years to retire on superannuation are concerned, they shall under an obligation to qualify the TET within 2 years from date in order to continue in service. If any of such teachers fail to qualify the TET within the time that we have allowed, they shall have to quit service. They may be compulsorily retired; and paid whatever terminal benefits they are entitled to. We add a rider that to qualify for the terminal benefits, such teachers must have put in the qualifying period of service in accordance with the rules. If any teacher has not put in the qualifying service and there is some deficiency, his/her case may be considered by the appropriate department in the Government upon a representation being made by him/her.

218. Subject to what we have said above, it is reiterated that those aspiring for appointment and those in-service teachers aspiring for appointment by promotion must, however, qualify the TET, or else, they would have no right of consideration of their candidature.

219. With the aforesaid modification of the impugned judgments/orders, all the appeals relatable to in-service



teachers of non-minority schools stand disposed of on the above terms.”

5. Learned counsel for the State referred to para 3 to 7 of the impugned order dated 15.10.2025, which reads as under:

“3. In accordance with the above decision of the Hon'ble Supreme Court. teachers in government service who have not passed the TET exam have been directed to pass the TET exam within two years, Instructions have also been given to provide compulsory retirement to such teachers if they do not pass the TET exam within two years. Furthermore, only teachers who have passed the TET exam have been declared eligible for promotion.

4. In this regard, it is to be informed that in accordance with Section 23 (1) of the RTE Act, 2009, in Para 1 (b) of the notification dated 23.08.2010 issued by NCTE, TET (Teacher Aptitude Test) has been included in the mandatory training qualification for teachers teaching in classes 6 to 8

5. Under Rule 5(3) (b) (IV) of Uttarakhand State Educational (Teaching Cadre) Gazetted Service Rules-2022 as amended in 2025', teachers who have completed 15 years in the post of Assistant Teacher (LT) have been included in the eligibility to participate in the departmental recruitment examination for promotion to the posts of Principal Headmaster.

6. Most of the teachers who applied for the departmental recruitment examination in question are Assistant Teachers/LT teachers who were appointed in the department before the promulgation of RTE Act, 2009, and have not passed the TET exam.

7. Therefore, in such circumstances, guidance/advice of the Justice Department is also being sought in the light of the above decision of the Hon'ble Supreme Court regarding promotion of Assistant Teacher LT teachers to the posts of Principal/Principal, Government (Boys/Girls) Inter College through the limited departmental recruitment examination in question.”

6. After hearing learned counsel for the parties and on perusal of records, we are of the considered



view that the petitioner has no fundamental right to promotion and has only a right to be considered for promotion in accordance with relevant rules. An employer has to determine the criteria for recruitment and in the present case, the State Government had taken a conscious decision to examine the matter of recruitment to the post of Principal in the light of the decision of the Hon'ble Supreme Court.

7. An employer for cogent reasons can withhold or cancel the recruitment process and even mere selection does not confer any right of appointment. In the case ***Deepak Agarwal vs. State of U.P.***, reported in **(2011) 6 SCC 725**, the Hon'ble Apex Court in Para 27 of the Judgment held as under:

“27. This Court in the case of **Jai Singh Dalal Vs. State of Haryana** (supra) has held as under:

“It is clear from the above pleadings that in 1990 the State Government resolved to resort to special recruitment to the Haryana Civil Service (Executive Branch) invoking the proviso to Rule 5 of the rules. Pursuant thereto, it issued the notifications dated December 20, 1990 and January 25, 1991. The names of the candidates were forwarded by the State Government to the HPSC for selection. The HPSC commenced the selection process and interviewed certain candidates. In the meantime, on account of an undertaking given by the Advocate General to the High Court at the hearing of C.W.P. No. 1201 of 1991 and allied writ petitions, the State Government was required to forward the names of



the candidates belonging to two other departments of the State Government. Before it could do so, the new Government came into power and it reviewed the decision of the earlier Government and found the criteria evolved by the earlier Government unacceptable and also noticed certain infirmities in the matter of forwarding the names of eligible candidates. It, therefore, resolved to rescind the earlier notifications of December 20, 1990 and January 25, 1991. It will thus be seen that at the time when the writ petition which has given rise to the present proceedings was filed, the State Government had withdrawn the aforesaid two notifications by the notification dated December 30, 1991. The stage at which the last-mentioned notification came to be issued was the stage when the HPSC was still in the process of selecting candidates for appointment by special recruitment. During the pendency of the present proceedings the State Government finalised the criteria for special recruitment by the notification of March 9, 1992. Thus, the HPSC was still in the process of selecting candidates and had yet not completed and finalised the select list nor had it forwarded the same to the State Government for implementation. The candidates, therefore, did not have any right to appointment. There was, therefore, no question of the High Court granting a mandamus or any other writ of the type sought by the appellants. The law in this behalf appears to be well settled.”

8. Thus, in cases where selection process is stalled midway due to changed circumstances in those cases also a candidate cannot claim promotion as of right however, in the present case an advertisement was only issued which has been cancelled due to valid reasons. Thus, the petitioner, having no fundamental



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right for promotion and the reasons for cancellation of recruitment process being valid, there is no scope of interference in the present case. The Writ Petition fails and is hereby dismissed.

(G. NARENDAR, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 13.11.2025
Kaushal