

Court No. - 29

Case :- SPECIAL APPEAL No. - 350 of 2025

Appellant :- Preeti Jatave And 5 Others

Respondent :- State Of Uttar Pradesh And 7 Others

Counsel for Appellant :- Siddharth Khare,Sr. Advocate

Counsel for Respondent :- Ashish Kumar (Nagvanshi),Ashok Kumar Singh,C.S.C.,Gaurav Bishan,Pranesh Dutt Tripathi

With

Case :- SPECIAL APPEAL DEFECTIVE No. - 336 of 2025

Appellant :- Ritesh Kumar Chaurasia And Another

Respondent :- State Of Up And 4 Others

Counsel for Appellant :- Satyendra Chandra Tripathi,Shiv Poojan Yadav

Counsel for Respondent :- Archana Singh,C.S.C.

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Praveen Kumar Giri,J.

(Per: Ashwani Kumar Mishra, J.)

1. Affidavit of the Parishad filed today is taken on record.
2. These special appeals arise out of a judgment and order passed by the learned Single Judge, dated 24th March, 2025; whereby a bunch of writ petitions came to be dismissed by the learned Single Judge.
3. All the writ petitioners had applied for appearing in the Assistant Teacher Recruitment Examination (ATRE) for which a government order was issued on 1st December, 2018, commencing the process itself. This process was initiated for the purposes of recruiting 69000 teachers. The Government Order of 1st December, 2018, specified 22nd December, 2018, as the last date for filling up of the application form. The eligibility for appearing in the ATRE was already specified and included TET/BTC qualification. Though many of the appellants have

passed ATRE, but later on their candidature has been cancelled on the ground that TET/BTC results, in respect of such candidates, was declared after 22nd December, 2018 and, therefore, they were not eligible to apply for ATRE on the last date of making of the application.

4. Learned Single Judge has dismissed the writ petitions after holding that eligibility of candidate for appearing in ATRE had to be examined with reference to the last date of making of the application form itself, and since on last date of making application these candidates were not possessing the requisite qualification for appearing in the ATRE, as such, their candidature is rightly cancelled.

5. The judgment of learned Single Judge is primarily assailed on the ground that the State Government issued a Government Order on 3rd January, 2019, which provided as under:-

"संख्या-23/65-4-2019

प्रेषक,

चन्द्रशेखर

विशेष सचिव

उत्तर प्रदेश शासन।

सेवा में,

1- निदेशक,

राज्य शैक्षिक अनुसंधान एवं प्रशिक्षण

परिषद उ०प्र० लखनऊ।

2- सचिव,

बेसिक शिक्षा परिषद

उ०प्र० प्रयागराज ।

बेसिक शिक्षा अनुभाग- 4

लखनऊ

दिनांक 03 जनवरी-2019

विषय: सहायक अध्यापक भर्ती परीक्षा-2019 में आवेदन किए हये अर्ह शिक्षा मित्रों को आयु सीमा में छूट प्रदान कर प्रवेश पत्र ऑनलाइन निर्गत कराये जाने के सम्बन्ध में:

महोदय,

उपर्युक्त विषयक सचिव बेसिक शिक्षा उ०प्र० प्रयागराज के पत्र संख्या-वे०शि०प०-

16228-29/2018-19 दिनांक 02 जनवरी 2019 का सदर्थ ग्रहण करे।

2- इस सम्बन्ध में मुझे यह कहने का निर्देश हुआ है कि शासन द्वारा सम्यक विचारोपरान्त सहायक अध्यापक भर्ती परीक्षा-2019 में आवेदन किये हुये ऐसे अर्ह शिक्षा मित्रों को जो कि त्रुटिवश प्रशिक्षण योग्यता का कॉलम नहीं भर सके, उन्हें आयु सीमा में छूट का लाभ नहीं मिल सका तथा उनका अभ्यर्थन निरस्त हो गया है, उन्हें आयु सीमा में छूट का लाभ प्रदान करते हुये प्रवेश पत्र आफ लाइन निर्गत करने की अनुमति प्रदान की जाती है।

भवदीय

हस्ताक्षर अस्पष्ट

(चन्द्रशेखर)

विशेष सचिव।

सत्यप्रतिलिपि”

6. Pursuant to the aforesaid government order an advertisement was issued on 3rd January, 2019, which was to similar effect.

7. On the strength of aforesaid government order, it is contended that once the State Government has allowed applicants to make correction in their application form and submit fresh application form for the purposes of securing age relaxation it ought to be treated that the last date for filling up of the application was extended till 4th January, 2019.

8. The other ground urged on behalf of the appellants is that a clarification was issued by the State Government on 5th March, 2021, wherein it was provided that if any subsequent change in the marks is made by the concerned University/Examining Body, then it would not invalidate the candidature of the candidate concerned. Clause 2(1) of the Government Order, dated 5th March, 2021, is reproduced hereinafter:-

“(1) समिति की संस्तुति के बिन्दु-1, प्राप्तांक अधिक के संबंध में - जिन अभ्यर्थियों द्वारा अपने आवेदन पत्र में उनके पास उपलब्ध वैध प्रमाण-पत्र / अंकपत्रों के आधार पर अधिक प्राप्तांक अंकित किये गये थे तथा उनके अंकपत्रों/प्रमाणपत्रों के संबंध में स्कूटनी/पुनर्मूल्यांकन / बैंक पेपर में अर्जित अंक अथवा अन्य किसी आधार पर प्राप्तांकों में विश्वविद्यालय / निगम संस्था द्वारा स्वयं परिवर्तन किया गया है तथा संबंधित प्रमाण पत्र -आवेदन पत्र पूरित करने के पश्चात् निर्गत किया गया, तो ऐसे अभ्यर्थियों के अंकों में परिवर्तन होने

/ त्रुटिपूर्ण आवेदन-पत्र भरने के लिए संबंधित अभ्यर्थी को जिम्मेदार नहीं माना जा सकता, क्योंकि तत्समय संबंधित अभ्यर्थी के पास आवेदन पत्र में अंकित सूचनाओं संबंधी ही प्रमाण-पत्र/अंक पत्र उपलब्ध थे। अतः ऐसे अभ्यर्थी यदि संबंधित जनपद में अपने वर्ग में जनपद में अन्तिम चयनित अभ्यर्थी के गुणांक से अधिक गुणांकधारी है तो ऐसे अभ्यर्थियों के नियुक्ति पत्र निर्गत कर दिया जाये। यदि संबंधित अभ्यर्थी का वास्तविक गुणांक जनपद में संबंधित वर्ग में अन्तिम चयनित अभ्यर्थी के गुणांक से कम है, किन्तु राज्य स्तर पर संबंधित वर्ग एवं वरीयताक्रम में अन्तिम चयनित अभ्यर्थी के गुणांक से अधिक है तो ऐसे अभ्यर्थी का प्रस्ताव शिक्षा निदेशक, बेसिक के माध्यम से शासन को उपलब्ध कराया जाये। शासन द्वारा दिये गये निर्देश के क्रम में कार्यवाही की जायेगी। जहां पर अभ्यर्थी के द्वारा स्वयं बिना किसी अभिलेखीय आधार के वास्तविक प्राप्तांक से अधिक अंक अथवा कम पूर्णांक अंकित किया गया है, उनके चयन / अभ्यर्थन को निरस्त कर दिया जाय।”

9. Sri Khare, learned Senior Counsel for the appellant argues that appellants have secured appointment on the strength of their merit and it would be unjust to discard their candidature only because their TET/BTC Examination result was declared later. It is also submitted that all applicants constitute a composite and homogeneous class and no distinction therein can be made with reference to a particular set of applicants i.e. Shiksha Mitra, here. It is also submitted that since changes made in the marksheet of the candidate has been taken into consideration, as such, many of the candidates, who had initially failed and had later passed in the back-paper, were also allowed appointment. This clearly conveyed that for all practical purposes the last date of filling up of the application form stood extended and, therefore, no useful purpose would be served in denying consideration to the claim of the appellants.

10. Ms. Archana Singh, on the other hand, submits that the last date for filling up of the application form for ATRE has not been extended beyond 22nd December, 2018. So far as the Government Order, dated 3rd January, 2019 is concerned, it is urged that Shiksha Mitra constitute a separate class of teachers, who had worked, as such, their engagement was discontinued after the scheme itself was brought to end. Dispute in respect of Shiksha Mitra was ultimately taken to

Supreme Court and they were granted limited benefit of age relaxation and additional points for number of year of working as Shiksha Mitra.

11. Ms. Archana Singh further submits that the last date for Shiksha Mitra has also not been extended beyond 22nd December, 2018, but some of such candidates who had not been able to correctly fill their experience column and were denied the benefit of age relaxation, alone were permitted to provide such details, so that the relaxation of age benefit is extended to them. Argument is that the limited permission granted to such persons, who had already filled their application by 22nd December, 2018 was to permit them to make correction in the form for facilitating them age relaxation. This cannot be construed as a decision taken to extend the last date for filling up of the application form. Similarly, in respect of the Government Order, dated 5th March, 2021, it is asserted that only those persons, who had requisite eligibility on the last date of filling up of the application form i.e. 22.12.2018 and had made their application within time it was provided that if the examining body/university subsequently made any changes in their marks, then such change in marks was not to invalidate their candidature. Submission is that this also cannot be construed as extending the date of submission of the application form.

12. Sri Ashok Khare has invited our attention to an RTI reply dated 26.8.2021, as per which, one Smt. Reena Maurya, who was issued partial examination marksheet on 11.10.2020 has also been issued appointment letter. It is urged that many of the persons, who acquired eligibility after the cut-off-date, have been retained in employment while the appellants have been discriminated.

13. When the matter was heard lastly on 1.5.2025, we passed following orders:-

"We are informed that a supplementary affidavit has been served upon counsel for the respondents, yesterday. The affidavit is taken on record.

Though the respondents' counsel state that they have instructions in the matter, but we are of the view that facts recited in the affidavit be responded by filing an affidavit of a responsible officer.

Repeat as fresh on its due turn."

14. An affidavit has been filed by the Secretary, U.P. Basic Education Board, in which it is categorically stated that last date for filling up of ATRE was 22.12.2018 and the same has not been extended thereafter. It is further stated that any person if has acquired eligibility after 22.12.2018 and has been appointed as Assistant Teacher is being removed from service uniformly. It is submitted in paragraph 18 that Smt. Reena Maurya, whose case has been cited as an illustration has also been removed. It is urged that since appointment to almost 69000 teachers have been issued, as such, few isolated stands of wrongful appointments as and when are coming to the notice of the authorities they are being dealt with uniformly.

15. We have learned counsel for the parties and perused the materials on record.

16. It is the specific case of the State that last date for making of application for ATRE was 22.12.2018. This date has not been extended later. Law is settled that eligibility of a candidate for appearing in the ATRE will have to be viewed with reference to the last date of filling up of the application form which is 22.12.2018. Learned Single Judge has also come to the conclusion that the last date was 22.12.2018 and has not been extended, thereafter.

17. The appellants claim is based upon two documents, which

have already been referred to above. So far as the Government Order dated 3rd January, 2019 is concerned, it clearly records that all those candidates, who have filled their application form for ATRE, but due to inadvertence have not correctly filled their experience column as a result of which they were denied age relaxation as Shiksha Mitra, are permitted to make necessary corrections offline. This position is specific to a class of persons i.e. Shiksha Mitra. The applicants who were earlier Shiksha Mitra were allowed age relaxation and awarded additional marks for their working as Shiksha Mitra in ATRE examination. The action of the State in permitting such persons to correct the application form was taken with the intent of protecting right of such Shiksha Mitra who otherwise had gone out of employment. Even in the case of Shiksha Mitra application forms were allowed to be filled only upto 22nd December, 2018. Merely permitting such persons to make correction in the application form cannot be construed as extending the last date fixed for filling up of the application form. The submission of Sri Khare on this count therefore is found to be bereft of any merit.

18. Coming to the next aspect with regard to the issuance of Government Order dated 5.3.2021, we have perused the specific clause in the government order which merely states that if the examining body/university has made amendment in the marks awarded to the candidate after the last date fixed for filling up of the application form then such unilateral change by the examining body/university would not result in cancellation of the candidature of the person concerned. The Government Order, dated 5.3.2021 merely explains that the applicants who have made application would not be prejudiced on account of any act of the examining body/university later in point of time. This action also cannot be construed as a decision extending the last date fixed for making of the application form.

19. Coming to the aspect of certain persons unauthorizedly being allowed to appear, inasmuch as, they had already failed in TET/BTC Examination and appeared in back paper for which result was declared after 22.12.2018, yet they have been issued appointment, a specific stand has been taken by the respondents that all such candidates are being uniformly dealt with and are being denied appointment. This stand of the respondents clearly acknowledges the fact that eligibility for appearing in ATRE has been examined with reference to the last date of making of the application form i.e. 22.12.2018. We clarify that if any person who was not eligible for appearing in the ATRE, but despite it has been granted appointment, the respondents shall scrutinize such cases and will ensure that benefit of appointment is not extended to such category of persons. Even otherwise, no negative equality can be claimed in the matter.

20. In light of the deliberations and discussions held above, these appeals fail and are dismissed.

Order Date:- 15.5.2025

Ranjeet Sahu

(Praveen Kumar Giri, J.)

(Ashwani Kumar Mishra, J.)