

HIGH COURT OF TRIPURA
AGARTALA
WP(C) No.242 of 2025

- 1. Apu Bhowmik,**
Son of Bidhan Bhowmik, Resident of Abhanga, Kamalpur,
Dhalai, Tripura, Pin-799286 (Age-35 years)
- 2. Dhiptano Das,**
Son of Dipak Das, Resident of Kishoreganj, P.O.-Kishoreganj,
P.S.-Kakraban, Gomati, Tripura, Pin-799105 (Age-30 years)
- 3. Mitán Podder,**
Son of Pulín Behari Podder, Resident of Khowaria, Nabinagar,
Bishalgarh, Sepahijala, Tripura, Pin-799102 (Age-36 years)
- 4. Amit Basak,**
Son of Late Bibhishan Basak, Resident of Ananda para,
P.O. & P.S.-Sabroom, South Tripura,
Pin-799145, (Age-35 years)
- 5. Sanjoy Rudrapal,**
Son of Sushil Chandra Rudrapal, Resident of Radhapur,
Dharmanagar, North Tripura, Pin-799254 (Age-34 years)
- 6. Mitán Das,**
Son of Krishna Chandra Das, Resident of West Howaibari,
P.O.-Howaibari, P.S.-Teliamura, Khowai, Tripura,
Pin-799205 (age-38 years)

----- Petitioner(s)

Versus

- 1. The State of Tripura,**
To be represented by the Secretary,
Education(School) Department, Government of Tripura,
New Secretariat Building, New Capital Complex, Kunjaban,
P.S-New Capital Complex, Agartala, West Tripura, Pin-799010.
- 2. The Secretary, Education (School) Department,**
Government of Tripura, New Secretariat Building,
New Capital Complex, Kunjaban, P.S-New Capital Complex,
Agartala, West Tripura, Pin-799010.
- 3. The Director of Elementary Education, Tripura,**
Shiksha Bhawan, Office Lane, Agartala,
West Tripura, Pin-799001.
- 4. Teachers' Recruitment Board, Tripura**
To be represented by the Chairman,
Teachers' Recruitment Board Tripura, Shiksha Bhavan,
Office Lane, Agartala, West Tripura, Pin-799001.
- 5. The Chairman,**
Teachers' Recruitment Board Tripura, Shiksha Bhavan,
Office Lane, Agartala, West Tripura, Pin-799001.
- 6. The Member Secretary,**
Teachers' Recruitment Board Tripura, Shiksha Bhavan,

Office Lane, Agartala, West Tripura, Pin-799001.

7. The Controller of Examinations,

Teachers' Recruitment Board Tripura, Shiksha Bhavan,
Office Lane, Agartala, West Tripura, Pin-799001.

8. National Council for Teacher Education

To be represented by the Chairperson,
National Council for Teacher Education,
Office Address at National Council for Teacher Education,
G-7, Sector-10, Dwarka Near Metro Station,
New Delhi, Pin-110075

9. The Member Secretary,

National Council for Teacher Education
Office Address at National Council for Teacher Education,
G-7, Sector-10, Dwarka Near Metro Station,
New Delhi, Pin-110075

----- Respondents

Along with
WP(C) No.243 of 2025

Mithu Paul Deb,

Wife of Sri Samir Deb,
Resident of Halhali, Kamalpur, Dhalai, Tripura (Age-44 years)

----- Petitioner(s)

Versus

1. The State of Tripura,

To be represented by the Secretary,
Education(School) Department, Government of Tripura,
New Secretariat Building, New Capital Complex, Kunjaban,
P.S-New Capital Complex, Agartala, West Tripura, Pin-799010.

2. The Secretary, Education (School) Department,

Government of Tripura, New Secretariat Building,
New Capital Complex, Kunjaban, P.S-New Capital Complex,
Agartala, West Tripura, Pin-799010.

3. The Director of Elementary Education, Tripura,

Shiksha Bhawan, Office Lane, Agartala,
West Tripura, Pin-799001.

4. Teachers' Recruitment Board, Tripura

To be represented by the Chairman,
Teachers' Recruitment Board Tripura, Shiksha Bhavan,
Office Lane, Agartala, West Tripura, Pin-799001.

5. The Chairman,

Teachers' Recruitment Board Tripura, Shiksha Bhavan,
Office Lane, Agartala, West Tripura, Pin-799001.

6. The Member Secretary,

Teachers' Recruitment Board Tripura, Shiksha Bhavan,
Office Lane, Agartala, West Tripura, Pin-799001.

7. The Controller of Examinations,

Teachers' Recruitment Board Tripura, Shiksha Bhavan,
Office Lane, Agartala, West Tripura, Pin-799001.

8. National Council for Teacher Education

To be represented by the Chairperson,
National Council for Teacher Education,
Office Address at National Council for Teacher Education,
G-7, Sector-10, Dwarka Near Metro Station,
New Delhi, Pin-110075

9. The Member Secretary,

National Council for Teacher Education
Office Address at National Council for Teacher Education,
G-7, Sector-10, Dwarka Near Metro Station,
New Delhi, Pin-110075

10. National Institute of Open Schooling

To be represented by the Secretary,
National Institute of Open Schooling, A-24/25,
Institutional Area, Sector-62, NOIDA,
Gautam Budh Nagar District, Uttar Pradesh, Pin-201309.

----- Respondents

WP(C) No.242 of 2025

For Petitioner(s) : Mr. Mandeep Kalra, Adv,
Mr. Arijit Bhowmik, Adv.

For Respondent(s) : Mr. Mangal Debbarma, Addl. G.A.,

WP(C) No.243 of 2025

For Petitioner(s) : Mr. Mandeep Kalra, Adv,
Mr. Arijit Bhowmik, Adv.

For Respondent(s) : Mr. Karnajit De, Addl. G.A.,
Ms. Pinki Chakraborty, Adv.

Date of hearing : 06.02.2026

Date of delivery of
Judgment & Order : 27.02.2026

Whether fit for
reporting : YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

Since common questions of law and facts are involved in both the writ petitions, so, both the writ petitions are disposed of by this common judgment.

2. Heard Learned Counsel, Mr. Mandeep Kalra appearing on behalf of the petitioners in both the writ petitions. Also heard Learned Addl. G.A., Mr. Mangal Debbarma appearing on behalf of the State-respondents in WP(C) No.242 of 2025 and Learned Addl. G.A., Mr. Karnajit De appearing on behalf of the State-respondents in WP(C) No.243 of 2025 and further heard Learned Counsel, Ms. Pinki Chakraborty vice Learned Counsel, Mr. Milan Laskar appearing on behalf of the respondent No.10 in WP(C) No.243 of 2025.

3. **Brief facts of both the petitions are summarized below:**

In WP(C) No.242 of 2025

The petitioners in WP(C) No.242 of 2025 were working as teachers in private and unaided schools of Tripura. They were untrained teachers and were in service when NCTE (National Council for Teacher Education) issued a special recognition order on 22.09.2017 permitting NIOS(National Institute of Open Schooling) to conduct an 18 months' D.El.Ed(ODL) course for in-service teachers. Thereafter, the petitioners took admission in D.El.Ed course for the year 2017-19 sessions and continued teaching while undergoing training. They appeared in the final examination held in the month of March, 2019 and completed the course within the stipulated period fixed by NCTE. The marksheets in favour of the petitioners was issued on several dates, however, NIOS later clarified that the result was declared on 22.05.2019. The petitioners thereafter qualified in the Teachers' Eligibility Test and became eligible for recruitment. On 12.12.2024, TRBT (Teacher Recruitment Board Tripura) issued a notification for recruitment of Under Graduate Teachers prescribing

Senior Secondary, D.El.Ed and T-TET(Tripura-Teachers' Eligibility Test) as essential minimum qualifications. The petitioners applied for the said post within the prescribed time i.e. within 10.01.2025 and participated in document verification process which was held on 20.02.2025 but when the final selection list was published on 03.04.2025, their names were not included in the said list. Aggrieved by the arbitrary decision of the authority, the petitioners have filed this writ petition challenging the action of the authority.

In WP(C) No.243 of 2025

In WP(C) No.243 of 2025, the petitioner Smt. Mithu Paul Deb was appointed as an Assistant Teacher in a private school on 05.01.2017 and continued her service upto 30.04.2023. While working as an Assistant Teacher, she joined D.El.Ed training introduced by NCTE on 22.09.2017 for untrained in-service teachers to undergo the 18 months' D.El.Ed.(ODL) course through NIOS. She took admission in the D.El.Ed course for the year 2017-19 sessions and continued her teaching duties along with her studies. She appeared in the final examination conducted in March, 2019 and completed the course and her marksheet was issued on 07.02.2022 but NIOS later clarified that the result was declared on 22.05.2019. She later on qualified the T-TET and applied for recruitment pursuant to the notification dated 12.12.2024 issued by TRBT for Graduate Teacher post. She submitted her application within the prescribed time i.e. within 10.01.2025 and qualified the examination and thereafter appeared for document verification process on 20.02.2025 but when the final selection list was published on 03.04.2025, her

name was not considered/published in the said list. So, being aggrieved by the decision of the authority, she filed the present writ petition seeking relief.

4. Submission of common argument of the petitioners in both the writ petitions:

Learned Counsel, Mr. Mandeep Kalra appearing on behalf of the petitioners in WP(C) No.242 of 2025 submitted that all the petitioners have/had been served as Assistant Teacher/Graduate Teacher at different schools. The name of the petitioners with the period of service they rendered and the names of schools are mentioned hereinbelow:

Sl. No.	Name of petitioner	Period of Service	Name of School
1.	Apu Bhowmik	01.02.2013 to till date	Janthum English Medium H.S. School
2.	Dhiptano Das	01.08.2017 to till date	Gurukul Shikhya Niketan (English Medium) School
3.	Mitan Podder	11.09.2016 to 04.06.2019	Ananda Marga School, Bishalgarh
4.	Amit Basak	06.01.2014 to till date	Dhamma Dipa School
5.	Sanjoy Rudrapal	11.06.2013 to till date	Tripureswari Shishu Mandir
6.	Mitan Das	05.04.2016 to till date	G-Next Model School

Learned Counsel further submitted that the petitioner of WP(C) No.243 of 2025 performed her duties as an Assistant Teacher at Dr. Sarvepalli Radhakrishnan Vidyamandir School, Halhali, Dhalai, Tripura with effect from 05.01.2017 to 30.04.2023.

4.1. Learned Counsel for the petitioners at the time of hearing first of all drawn the attention of the Court referring the notification dated 23.08.2010 issued by NCTE whereby the NCTE has prescribed the minimum qualification for a person to be eligible for appointment as a teacher in Classes-I-VIII refers to clause (n) of

Section 2 of the Right of children to free and Compulsory Education Act, 2009, with effect from the date of this notification.

For the sake of convenience, the notification is mentioned herein below:

**NATIONAL COUNCIL FOR TEACHER EDUCATION
NOTIFICATION**

New Delhi, the 23rd August, 2010

F.No.61.03/20/2010.NCTE/(N&C)-

In exercise of the powers conferred by Sub-section(1) of Section 23 of the Right of Children to free and Compulsory Education Act, 2009 (35 of 2009) and in pursuance of Notification No.S.O. 750 (E) dated 31 March, 2010 issued by the Department of School Education and Literacy Ministry of Human Resource Development, Government of India, the National Counsel for Teacher Education (NOTE) hereby lays down the following minimum qualifications for a person to be eligible for appointment as a teacher in class I to VIII in a school referred to in clause (n) of Section 2 of the Right of Children to free and Compulsory Education Act, 2009, with effect from the date of this Notification-

1. Minimum Qualifications

i-Classes I-V

(a) Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education (by whatever name known)

OR

Senior Secondary (or its equivalent) with at least 45% marks and-2 year Diploma in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure) Regulations 2002

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (b.Ei.Ed)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education (Special Education)

AND

(b) Pass in the Teacher eligibility Test (TET) to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

(ii) Classes VI-VIII

(a) BA/B.Sc and 2 year Diploma in Elementary Education (by whatever name known)

OR

BA/B.Sc with at least 50% marks and 1 year Bachelor in Education (B.ed)

OR

BA/B.Sc with at least 45% marks and 1 year Bachelor in Education (B.ed), in accordance with the NCTE

(Recognition norms and Procedure) Regulations issued from time to time in this regard.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4 Year Bachelor in Elementary Education (b.Ei.Ed)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4 year (BA/B.Sc, Ed or B.A Ed/BSc.Ed.)

OR

BA/B.Sc with at least 50% marks and 1 year B.Ed (Special Education)

AND.

b) Pass in the Teacher Eligibility Test (TET) to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

2. Diploma/Degree Course in Teacher Education- for the purposes of this Notification a diploma/degree course in teacher education recognized by the National Council for Teacher Education NCTE only shall be considered. However, in case of Diploma in education (Special Education) and B.ed (Special Education) a course recognized by the Rehabilitation Course of India (RCT) only shall be considered.

3. Training to be undergone- A person

(a) with BA/B.Sc. with at least 50P/0 marks and B.Ed qualification shall also be eligible for appointment for class 1 to V upto 1 January, 2012, provided he undergoes after appointment an NCTE recognized 6 month special program in Elementary Education.

(b) with D.ed (Special Education) or B.Ed (Special Education). Qualification shall undergo, after appointment as NCH; recognized 6 month special programme in Elementary Education.

4. Teacher appointment before the date of this Notification- The following categories of teachers appointment for classes I to VIII prior to date of this Notification need not acquire the minimum qualifications specified in para (1) above.

a. A Teacher appointed on or after the 3rd September 2001 i.e. the date on which the NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations 2001 (as amended from the time) came into force, in accordance with that Regulation.

Provided that a teacher of class I to V possessing B.Ed qualification or a teacher possessing B.ed (Special Education) or D:Ed (Special Education) qualification shall undergo an NCTE recognized 6 month special programme on elementary education.

b. A teacher of class I to V with B.Ed qualification who has completed a 6 month Special Basis teacher Course (Special ETC) approved by the NCTE.

c-A teacher appointed before the 3rd September 2001, in accordance with the prevalent Recruitment Rules.

5. Teacher appointed after the date of this notification in certain cases- Where an appropriate Government or local authority or a school has issued an advertisement to initiate the process of appointment of teacher prior to the

date of this notification, such appointment may be made in accordance with the NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations 2001 (as amended from time to time).

**HASIB AHMAD, Member Secy
(ADVTIII/4/131/10-Exty)**

4.2. Thereafter, Learned Counsel for the petitioners in both the writ petitions drawn the attention of the Court to the relevant part of the communication dated 03.08.2017 written by Addl. Secretary, Ministry of Human Resource Development to all the Secretaries of the State wherein it was mentioned that in pursuance of the amendment to the Section 23(2) of RTE Act, training of untrained elementary teachers in Government/Government aided/unaided private schools has been extended till 31st March, 2019 by the Parliament and this will be the last chance to acquire the requisite minimum professional qualifications. Any teacher in the aforementioned schools, who does not have the minimum qualifications mandated under the RTE Act, 2009, would not be allowed to continue in-service beyond 1st April, 2019, and procedure for dismissal shall be initiated against such teachers. It was further mentioned in the said communication that the State Coordinator will enter the database of untrained in-service teachers (in private and Govt. schools) on the portal especially prepared by NIOS for this purpose and this portal will also be utilized to monitor the progress of training in each State/UT with further observation that for teachers in Private Schools, a Certificate from the Principal would be taken to ensure that the teacher is serving in the School and these certificates will be collected by the State/UT. Referring the said communication, Learned Counsel submitted that it was the responsibility of the State Coordinator to maintain the

database of the untrained in-service teachers. For the sake of convenience, the relevant portion of the said communication dated 03.08.2017 is mentioned herein as under:

“ * * * * *

This is regarding training of untrained in-service elementary teachers in the Govt./ Govt. Aided/Unaided-Private Schools. It is apprised that the Amendment to the Section 23(2) of the RTE Act to extend the period for such training to 31st March, 2019 has been passed by the Parliament.

2. Further, it is reiterated that this will be the last chance to acquire the requisite minimum professional qualifications. Any teacher in the aforementioned schools, who does not have the minimum qualifications mandated under the RTE Act, 2009, would not be allowed to continue in-service beyond 1st April, 2019, and procedure for dismissal shall be initiated against such teachers.

3. * * * * *

ix. State Coordinator will enter the entire database of untrained in-service teachers [in Private and Govt. schools] on the portal especially prepared by NIOS for this purpose. This portal will also be utilized to monitor the progress of training in each State/UT.

x. For teachers in Private Schools, a Certificate from the Principal would be taken to ensure that the teacher is serving in the school. These certificates will be collected by the State/UT.”

4.3. Learned Counsel also submitted that the Government accordingly provided the names of untrained in-service teachers. Thereafter, Learned Counsel also drawn the attention of the Court the Gazette notification dated 10.08.2017 published by Ministry of Law and Justice regarding the Right of Children to Free and Compulsory Education (Amendment) Act, 2017 wherein in para No.2, it has been specifically mentioned as under:

“2. In the Right of Children to Free and Compulsory Education Act, 2009, in section 23, in sub-section (2), after the proviso, the following proviso shall be inserted, namely:-

"Provided further that every teacher appointed or in position as on the 31st March, 2015, who does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of four years from the date of commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017.".”

4.4. Again, Learned Counsel drawn the attention of the Court referring another communication written by the Deputy Secretary to the Government of India, Ministry of Human Resource Development, Department of School Education & Literacy to the Chairperson, NCTE wherein in para No.3(II), it was specifically provided as under:

"3. To ensure the above training through NIOS, NCTE is directed to provide following relaxations under Section 29 of the NCTE Act:

* * * *

II. The D.El.Ed course will be from 3rd October, 2017 to 31st March, 2019. The duration of the course will be for 18 months. As the D.El.Ed. programme is of two year duration, NCTE shall allow subsuming of 6 months internship period within the duration of the proposed Online course through the SWAYAM portal as all the teachers are in-service and are already teaching."

Referring the same, Learned Counsel submitted that it was the decision of the Government of India that the D.L.Ed. course will be from 3rd October, 2017 to 31st March, 2019. The duration of the course will be for 18 months but as the D.El.Ed. programme is of two years duration, NCTE shall allow subsuming of 6 months internship period within the duration of the proposed online course through the SWAYAM portal as all the teachers are in-service and are already teaching. Learned Counsel further submitted that herein the case at hand, all the teachers were in-service on that relevant point of time and accordingly, they took admission in the D.El.Ed programme of 18 months with subsuming 6 months internship period as per the direction of the Government.

4.5. Thereafter, Learned Counsel submitted that the said programme of 18 months duration with 6 months subsuming internship was recognized by the NCTE and in this regard, a letter was communicated by the Member Secretary, NCTE to The Regional

Director, Northern Regional Committee, NCTE wherein in para No.3(ii), it was specifically recognized that any provision related to the duration of the programme so as to reduce it to 18 months instead of 2 years and the requirement of 6 months internship to be subsumed within the duration of 18 months. The relevant portion of the communication is mentioned herein as under:

3.

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*

(ii) Any provision related to the duration of the programme so as to reduce it to 18 months instead of 2 years and the requirement of 6 months internship to be subsumed within the duration of 18 months;

4.6. Thereafter, the NCTE by a notification dated 22nd September, 2017 issued one recognition order which is mentioned hereinbelow:

TO BE PUBLISHED IN GAZETTE OF INDIA PART-III, SECTION-IV

File No. NRC/NCTE/NIOS/Recognition/275th(Part-3) Meeting/2017

Dated:22 SEP 2017

RECOGNITION ORDER/182459-61

WHEREAS, the matter of recognition of the Project Proposal of National Institute of Open Schooling (NIOS) Noida for D.El.Ed. (ODL) programme through SWAYAM Portal of MHRD for training of in-service untrained teachers was considered by NRC and NRC overserved as follows:-

AND WHEREAS, the NCTE has received directions under Section-29 of the NCTE Act, 1993 from the Ministry of Human Resource Development vide their letters no.11-15/2017-EE-10 dated 21.08.2017 and 04.09.2017. The project proposal for recognition of Diploma in Elementary Education (D.El.Ed) programme through ODL mode has been submitted by National Institute of Open Schooling (NIOS) to NCTE Headquarter). The proposal is for conducting on-line D.El.Ed. programme through the SWAYAM portal of the Ministry of HRD for the in-service untrained teachers at elementary level working in Government/Government-aided and unaided private schools in the country.

AND WHEREAS, the said project proposal has been considered by an expert committee constituted by NCTE vide order dated 19.09.2017. The Committee considered the project and found that the NIOS is adequately prepared to conduct the programme and the curriculum proposed therein meets the requirement of the D.El.Ed. (ODL) programme of NCTE.

AND WHEREAS, In view of above mentioned directions of the Ministry of Human Resource Development under Section-29 of the NCTE Act, 1993 and after considering the recommendation of the Eexpert Committee, Chairperson NCTE in exercise of his powers under

clause 12 of the NCTE (Recognition Norms and Procedure) Regulations, 2014, granted relaxation vide NCTE Hqrs letter No. NCTE-Regul011/166/2017-US(Regulation) -HQ dated 21/09/2017 & letter dated 22.09.2017 to the following provisions in the NCTE Regulations-2014 for ensuring that the directives of the MHRD for implementing the amendment to the RTE Act, 2009 are duly fulfilled.

I. Any provision related to on-line submission of the application on NCTE Application portal;

II Any provision related to the duration of the programme so as to reduce it to 18 months instead of 2 years and the requirement of 6 months internship to be subsumed within the duration of 18 months;

III. Any requirement of minimum eligibility for admission to D.El.Ed programme, ie 50% marks in class 12, to the extent that those who do not fulfill this requirement shall be allowed to take provisional admission to the programme subject to their acquiring 50% marks before completion of the D.El.Ed. programme of NIOS.

IV. Any provision in the Regulations to enable NIOS to administer the programme through SWAYAM Portal of MHRD;

V. Any provision prescribing the number and nature of study centers to enable NIOS to cater around lakh untrained teachers,

VI. Allow NIOS to operate study centres manned by staff (academic and others) as per instructions of MHRD to enable NIOS to complete the training of in-service teacher numbering around 11 lakh by 31.03.2019.

VII Any provision in Regulations restricting the intake capacity in D.EL.Ed. (OOL) programme to enable NIOS to train the any required number of untrained teachers.

VIII. Since almost all the states and union territories of the country are involved in the exercise of training untrained teachers, there shall be no requirement of seeking no objection certificates from individual States/UTs.

IX. Besides the above relaxation, NRC may also consider imposing a condition of regular inspection/monitoring of the programme through a mechanism of inspection of centers by senior NIOS personnel or any agency deployed for the purpose, on random basis during the entire duration of the project, so as to cover all states at least once every 9 months. Report of such inspections must be submitted to the MHRD.

AND WHEREAS, After having considered all the above facts and figures, the NRC considered the case in its 275th (Part-3) decided that recognition be granted to the National Institute of Open Schooling (NIOS), Noida for D.El.Ed. (ODL) programme through SWAYAM Portal of MHRD for training of in-service untrained teachers under Section 14 of NCTE, Act, 1993 and clause 7(16) of NCTE Regulations, 2014 subject to fulfilling the following conditions.

I. The duration of the said programme shall be 18 months instead of 2 years including the 6 months internship.

II. The requirement of minimum eligibility for admission to D.El.Ed. programme, i.e. 50% marks in class 12, to the extent that those who do not fulfil this requirement shall be allowed to take provisional admission to the programme subject to their acquiring 50% marks before completion of the D.El.Ed. programme of NIOS;

III. NIOS to administer the programme through SWAYAM Portal of MHRD;

IV. NIOS shall operate study centres manned by staff (academic and others) as per instructions of MHRD to enable NIOS to complete the training of in-service untrained teachers numbering around 11 lakh by 31.03.2019 all over India.

V. There shall be no restriction to the number and nature of study centres to enable NIOS to train the required number of untrained teachers

VI. The intake capacity at each centre shall be maximum 100.

VII. Regular inspection/monitoring of the programme shall be conducted through a mechanism of inspection of centers by senior NIOS personnel or any agency deployed for the purpose, on random basis during the entire duration of the project, so as to cover all states at least once every 9 months. Report of such inspections must be submitted to the MHRD.

VIII. This programme shall be only for those in-service untrained teachers in Govt./Govt. Aided/Private unaided Schools appointed on or before 10/08/2017.

IX. All the provisions in the NCTE Act & Regulations, 2014 other than those relaxed under clause 12 of NCTE Regulations, 2014, will be applicable.

NOW THEREFORE, in exercise of the powers vested under Section 14(3)(a)/15(3)(a) of the NCTE Act, 1993, the Northern Regional Committee hereby grants recognition to National Institute of Open Schooling (NIOS) Noida, U.P. under clause 7(16) of NCTE (Recognition Norms & Procedure) Regulations, 2014 for D.El.Ed. (ODL) programme through SWAYAM Portal of MHRD for training of in-service untrained teachers subject to fulfillment of the conditions mentioned above.

By order

(Satish Gupta)
Regional Director(I/C)

The Manager,
Govt. of India Press,
Department of Publications, (Gazette Section)
Civil Lines, Delhi-110054

Copy to:-

1. The Chairman,
National Institute of Open Schooling,
A-24-25, Institutional Area, Sector-62,
Noida-201309, Uttar Pradesh.
2. The Secretary,
Department of School Education and Literacy,

**Ministry of Human Resource Development,
Govt. of India, Shastri Bhawan, New Delhi-110001**

**3. The US (EDP),
National Council for Teacher Education,
Hans Bhawan Wing-II, I,
Bahadur Shah Zafar Marg, New Delhi-110 002.**

**4. Computer Section of NRC, NCTE, Jaipur for upload
the same on NRC website.**

5. Institution file (concerned)

6. Guard file

Regional Director(I/C)

Referring the said order, Learned Counsel further submitted that in view of the directions of the Ministry of Human Resource Development under Section 29 of NCTE Act, 1993 and after considering the recommendation of the Expert Committee, Chairperson, NCTE in exercise of his power under Clause 12 of the NCTE (Recognition Norms and Procedure) Regulations, 2014 granted relaxation vide NCTE Hqrs letter dated 21.09.2017 and 22.09.2017 to the provisions in the NCTE regulations, 2014 for ensuring that the directives of the MHRD for implementing the amendment to the RTE Act, 2009 are duly followed. In the said order, it was specifically mentioned that any provision related to the duration of the programme so as to reduce it to 18 months instead of 2 years and the requirement of 6 months internship to be subsumed within the duration of 18 months and it was also mentioned in para No.(v) that any provision prescribing the number and nature of study centres to enable NIOS to cater to around 11 lakh untrained teachers and in para No.(vi), it was mentioned to allow NIOS to operate study centres manned by staff (academic and others) as per instructions of MHRD to enable NIOS to complete the training of in-service teacher numbering around 11 lakh by 31.03.2019. Learned Counsel further submitted that within the said period all the teachers completed the D.El.Ed

programme and in the said order, it was also mentioned that the programme shall be only for those in-service untrained teachers in Government/Government-aided and unaided private schools appointed on or before 10.08.2017 and by the said order, the NCTE granted recognition to NIOS to conduct programme through SWAYAM portal of MHRD for training of untrained in-service teachers subject to fulfillment of the condition mentioned above and accordingly, all the writ petitioners performed the relevant courses.

4.7. Learned Counsel also submitted that in this regard the NIOS also published one open public advertisement wherein it was mentioned that the course is approved by NCTE & MHRD. Anyone with this qualification can apply for job anywhere in India. It was also mentioned that Government of India has given an opportunity to all untrained Elementary school teachers teaching in Government/Government aided and private school to classes I to VIII to get D.El.Ed by March 31st, 2019. Based upon the advertisement across the country apart from the petitioners so many persons/untrained teachers got admitted and completed the course by 31st March, 2019.

4.8. Learned Counsel thereafter referred few judgments of Hon'ble Supreme Court of India. Firstly, Learned Counsel drawn the attention of the Court to the judgment of Hon'ble the Supreme Court of India reported in **(2025) 6 SCC 808 [titled as Vishwanath vs. State of Uttarakhand & Ors. dated 05.03.2025]** wherein in para Nos.1, 15, 16, 21 and 22, Hon'ble the Apex Court observed as under:

"1. By way of this application, the applicants have approached this Court for a direction on the respondent to permit the applicants who are holding the 18 months'

DEIEd qualification from the National Institute of Open Schooling ("NIOS") under the Open and Distance Learning ("ODL") mode to participate in the ongoing counselling process and to subsequently be appointed to the vacant posts in the ongoing recruitment.

15. This Court had further clarified vide paras 3 and 4 of the order dated 10-12-2024 passed in RP (C) Diary No. 4961 of 2024 titled as Viswanath v. State of Uttarakhand [Viswanath v. State of Uttarakhand, 2024 SCC OnLine SC 4937] , as under: (SCC OnLine SC)

"3. However, to avoid any confusion, we again clarify that the 18 months diploma obtained by such persons, who were in employment as on 10-8-2017 and who have completed the diploma course of 18 months, would be treated as valid diploma holders for the purpose of applying in other institutions or for promotional avenues.

4. Needless to state that the clarification will be effective from the date of pronouncement of the judgment under review."

16. The grievance of the applicants herein is that though they are eligible as per the original judgment of this Court dated 28-11-2023 [Jaiveer Singh v. State of Uttarakhand, (2024) 15 SCC 227 : 2023 SCC OnLine SC 1584] and the clarification dated 10-12-2024, inasmuch as the advertisement in the State of Uttarakhand is dated 29-5-2024, that is, after the judgment was delivered on 28-11-2023 [Jaiveer Singh v. State of Uttarakhand, (2024) 15 SCC 227 : 2023 SCC OnLine SC 1584] , the State of Uttarakhand is not considering their claim.

21. No doubt that, this Court has upheld the 2012 Rules framed by the State Government, vide the judgment dated 28-11-2023 [Jaiveer Singh v. State of Uttarakhand, (2024) 15 SCC 227 : 2023 SCC OnLine SC 1584] . However, at the same time, this Court had clarified that such of the teachers, who were already in employment as on 10-8-2017, would be entitled to the benefit of one-time scheme provided by the Government of India. This Court had held that such of the teachers who have completed the diploma course of 18 months would be treated as valid diploma-holders for the purpose of applying in other institutions or for promotional avenues.

22. Indisputably, the "other institutions" would also include the schools run by the State Governments."

Referring para No.14 of the aforesaid judgment, Learned Counsel drawn the attention of the Court that the Hon'ble Apex Court in the said judgment specifically observed/clarified that 18 months diploma obtained by such persons, who were in employment as on 10.08.2017 and who have completed the diploma course of 18 months, would be treated as valid diploma holders for the purpose of applying in other institutions or for promotional avenues and this will be effective from the date of pronouncement of the judgment under

review and referring para No.20, Learned Counsel further submitted that Hon'ble the Apex Court further clarified that the teachers who were already in employment as on 10th August, 2017, would be entitled to the benefit of One Time Scheme provided by the Government of India and the teachers who have completed the diploma course of 18 months would be treated as valid diploma holders for the purpose of applying in other institutions or for promotional avenues. Learned Counsel thereafter submitted that inspite of the direction of the Hon'ble Apex Court, the respondent-authority did not consider/publish the name of the petitioners of both the writ petitions in the final selection list, although they possessed the requisite qualification and had qualified in the examination.

4.9. Thereafter, Learned Counsel drawn the attention of the Court to the RTI made by some of the petitioners to the NIOS and pointed out that the following questions were put to NIOS through RTI for clarification:

- 1. Is 2017-19 NIOS D.El.Ed course is completed by 31st March, 2019 or not?**
- 2. Does the certificate issued on 22.05.2019 implies that our course was completed by 31.03.2019 or on 22.05.2019 although our last exam regarding NIOS D.El.Ed was held on mid March 2019?**

In reply under RTI, the NIOS gave the following reply on 24.07.2025:

Answer in respect of point No.1: Yes

Answer in respect of point No.2: NIOS conducted D.El.Ed programme for in-service untrained elementary teachers working at elementary level in Govt./Govt. aided/private unaided school across India as per the direction of Ministry of Education and recognition by NCTE. As per MoE and NCTE guidelines all the activities related to D.El.Ed have been completed by 31.03.2019 including the final examinations.

The date of result declaration of D.El.Ed. (Online) Examination held in March, 2019 was 22.05.2019.

Referring the same, Learned Counsel submitted that all the petitioners have completed their final examination by 31.03.2019 but the certificates of NIOS were issued on 22.05.2019, so, there was no confusion to that. But the respondent-authority ignoring the guidelines of NCTE and MoE most arbitrarily rejected the candidature of the petitioners and inspite of qualifying the examination as per requirement rules, intentionally did not mention their names in the final selection list.

4.10. Learned Counsel also submitted that as per the direction of MHRD, a memorandum dated 19.08.2017 was issued by the Additional Secretary to the Government of India, Education(School) Department, Directorate of Elementary Education, Government of Tripura which also acknowledged the said fact that the time limit of training of untrained in-service teachers in the Government/Government-aided/unaided private school has been extended upto 31.03.2019 by an amendment to Section 23(2) of RTE Act, 2009 as the last chance and by the said memorandum dated 19.08.2017, also issued necessary instructions in this regard which was also within the knowledge of the respondent-authority.

For the sake of convenience, the relevant part of memorandum dated 19.08.2017 are mentioned herein below:

“ * * *

- **All concerned Govt., Govt. aided and unaided Private Schools should upload the data of untrained in-service teachers under their control by 18 August 2017 positively.**
- **The Nodal Officer appointed by the NIOS for Tripura is Dr. Piyush Prasad. His contact no is 0361-2650541/2651201**

3. All in-service untrained teachers are therefore asked to acquire the minimum academic and professional qualification as prescribed by the NCTE within the stipulated timeline i.e 31/03/2019.
4. In view of the above, all District Education Officers, the Principal Officer, TTAADC are requested to instruct all Inspector of School and Principals/ Administrators / Head Teachers of the Government, Govt aided and Private Schools in respective jurisdiction to ensure compliance of this instruction by all concerned."

Referring the same, Learned Counsel submitted that inspite of having all the requisite qualification the respondent-authority has intentionally deprived the petitioners to their legitimate right which compelled the petitioners to file this present writ petitions seeking redress.

4.11. Thereafter, Learned Counsel for the petitioners in both the writ petitions drawn the attention of the Court to the order dated **10.12.2024** passed by the Hon'ble Supreme Court of India reported in **2024 SCC OnLine SC 4937 [titled as Viswanath & others vs. State of Uttarakhand & others]** wherein in para Nos.3 and 4, Hon'ble the Apex Court observed as under:

"3. However, to avoid any confusion, we again clarify that the 18 months diploma obtained by such persons, who were in employment as on 10.08.2017 and who have completed the diploma course of 18 months, would be treated as valid diploma holders for the purpose of applying in other institutions or for promotional avenues.

4. Needless to state that the clarification will be effective from the date of pronouncement of the judgment under review."

Referring the same, Learned Counsel further reiterated that Hon'ble the Supreme Court by the said order further clarified that 18 months diploma obtained by such persons, who were in employment as on 10.08.2017 and who have completed the diploma course of 18 months, would be treated as valid diploma holders for the purpose of applying in other institutions or for promotional avenues and the clarification will be effective from the date of

pronouncement of the judgment under review. But inspite of clear direction of the Hon'ble Apex Court, the respondent-authority failed to consider the case of the present petitioners and drop their names from the final selection list at the time of declaration of merit list.

4.12. Thereafter, Learned Counsel further submitted that the said fact also has been clarified by the Central Administrative Tribunal, New Delhi in a order dated 26.03.2025 in **case No.O.A./555/2025(Delhi) [Appointment] with M.A./650/2025 Exemption along with O.A./957 Recruitment** wherein the relevant part observed as under:

"He draws attention to Clause (v) of the affidavit, which as per the applicant is travelling beyond the directions of the permission granted by the Hon'ble Supreme Court. He submits that as per this clause, the experience as a Primary Teacher is being sought whereas there was no such direction of the Hon'ble Supreme Court. Further, he submits that out of 100 candidates who were in the merit list, only 99 have been called, leaving one Mr. Gajendra Lanjewar. There is no reason or explanation afforded by the KVS in their short affidavit as to why the one candidate has not been called."

4.13. Learned Counsel in support of his submission further drawn the attention of the Court to another order of the Hon'ble Supreme Court dated **03.06.2025** passed in connection with **Transfer Petition (Civil) Nos.1204-1206 of 2025 [titled as Milon Basumatary and others Vs. State of Assam and others]** along with **Transfer Petition (Civil) No.1096 of 2025** wherein Hon'ble Supreme Court specifically gave the following direction/order in respect of State of Assam:

"

ORDER

These transfer petitions have been preferred by petitioners, who have preferred writ petitions before the High Court seeking appointment to the post of Assistant Teacher on the strength of 18 month Diploma in Elementary Education (D.El.Ed.) course conducted by the National Institute of Open Schooling through Open Distance Learning (ODL) mode.

The basic proclaim was the order passed by this Court on 28.11.2023 in the matter of "Jaiveer Singh v. The State of Uttarakhand and Others:(2024) 15 SCC 227" and the clarification issued by this Court from time to time.

Mr. Ankit Roy, learned standing counsel appearing for the State of Assam fairly submits at the outset that similar writ petitions preferred by other candidates remain pending and those have been decided by High Court granting reliefs similar to the ones(illegible) which the present petitioners have prayed for.

Learned counsel appearing for the State of Assam prays for sending the matter back to the High Court. However, considering that the similarly placed petitioners have admittedly been granted relief, which they had prayed for, it would be unnecessary to relegate the petitioners to the High Court. Therefore, we dispose of the present petitions by allowing the writ petitions preferred by the petitioners in terms of the order passed by the High Court in other writ petitions preferred by similarly situated candidates.

In addition, it is directed that since the petitioners have already participated in the counseling, they shall be issued appointment orders/letters based on their merit position/result of the counseling. This may be done within a period of three months.

Pending application(s), if any, shall stand disposed of."

4.14. Lastly, Learned Counsel referred another order of the Hon'ble Supreme Court dated **08.10.2025** passed in connection with **Transfer petition(C) Nos.1995-1997 of 2024 [titled as Adarsh Kumar Srivastav and others Vs. State of Uttar Pradesh]** along with other connected Transfer petitions [Transfer petition(c) **No.1052 of 2025** and Transfer petition(c) **Nos.1404-1406 of 2025]** wherein in **Transfer petition(c) No.1052 of 2025** and **Transfer petition(c) Nos.1404-1406 of 2025** at para Nos.3, 4 and 5, Hon'ble the Apex Court gave the following observation:

"3. The sole ground on which they were denied appointment was that they did not possess the diploma of two years.

4. In that view of the matter, the transfer petitions are allowed.

5. The respondent(s)-State(s) are directed to issue appointment to the petitioners within a period of three months from today."

Referring the same, Learned Counsel submitted that inspite of specific orders of Hon'ble the Supreme Court, the respondent-authority most arbitrarily dropped the names of the

petitioners from the final selection list for which they were compelled to seek redress to this Court.

Finally, Learned Counsel urged for allowing the writ petition with a direction to the respondent-authority to issue appointment orders in favour of the petitioners within a short period.

5. Both the writ petitions have been contested by the State-respondents by filing their counter affidavit. The State-respondents in the counter affidavit denied the assertions of the petitioners in both the writ petitions. In para Nos.3, 4 and 5, the State-respondents have asserted the following facts and prayed for dismissal of the writ petition:

"3. The Hon'ble Supreme Court of India by a judgment passed in Jaiveer Sing and Others V/S The State of Uttarkhan had given relaxation of 18 Months diploma in Elementary Education (for short D.El.Ed) as one time window to the in-service teachers provided this 18 months D.El.Ed course must be completed prior to 1st April, 2019. But the Petitioner completed 18 months Diploma Course on 07.02.2022 i.e after 1st April, 2019. In para 42 of the said Judgment the Hon'ble Supreme Court has stated as follows:

"That leaves us with the reliance placed by the learned counsel for NCTE on the judgment of this Court in the case of Ram Sharan Maurya (Supra). There can be no doubt that NCTE, as an expert body, has a right to prescribe the minimum qualifications. In the present case itself, by notification dated 23rd August 2010 and 29th July, 2011, NCTE has done so. As already discussed hereinabove, recognition order dated 22nd September 2017 only provides a window for inservice teachers to complete their course prior to 1st April, 2019. As such, the said judgment does not apply to the present case."

Copy of the Judgment (Jaiveer Singh and Others V.S The State of Uttarkhand) is annexed hereto and marked as Annexure R/1.

4. That, subsequently, a review petition was filed for reviewing the said judgment. In the order passed in the Review Application the Hon'ble Supreme Court has again clearly stated that 18 months Diploma course relaxation was provided as an one time window only for in candidates. The operative part of the said order dated 10/12/2024 is as follows:

"2. We have already clarified in the judgment under review that the one time scheme was provided solely to safeguard the interests of those teachers who were employed as on 10.08.20217. We are, therefore, not inclined to entertain the present review petitions as well as miscellaneous applications.

3. However, to avoid any confusion, we again clarify that the 18 months diploma obtained by such persons, who were in employment as on 10.08.2017 and who have completed the diploma course of 18 months, would be treated as valid diploma holders for the purpose of applying in other institutions or for promotional avenues"

Copy of the Order dated 10.12.2024 is annexed hereto and marked as Annexure R/2.

5. That, the Petitioner is not entitled for recruitment in the post of Graduate Teacher because of the fact that 18 months Course was allowed by the Hon'ble Supreme Court only as one time relaxation for in service teachers only and the Petitioner was not an inservice teacher. From TRBT Application Acknowledgment for T-TET Paper II Session 2021 it has become clear that the Petitioner did not submit any No Objection Certificate to TRBT and also the petitioner stated "NO" against the column "Whether she was employed".

Copy of TRBT Application Acknowledgment for T-TET Paper II Session 2021 is annexed hereto and marked as Annexure R/3."

6. However, at the time of hearing, Learned Addl. G.A., Mr. Karnajit De appearing on behalf of the State-respondents has drawn the attention of the Court to the recruitment rules for the post of Graduate Teacher (For class VI-VIII) under the Education (School) Department notified vide No.F.1(1-1)-DEE/ESTT/2020(L-6)/8637 dated 23.03.2021(Annexure-R/4) and submitted that as per recruitment rules in point No.7 at clause(a), Graduation and 2 years Diploma in Elementary Education (by whatever name known) was fixed as essential minimum qualification for the post of Graduate Teacher(class VI-VII). It was further submitted by Learned Addl. G.A. that in both the writ petitions, the petitioners have not challenged the recruitment rules.

Furthermore, the petitioner Mithu Paul Deb at the time of application to TRBT (Annexure-R/3) in the relevant column mentioned that she was not in service. So, Learned Addl. G.A. submitted that the petitioner Mithu Paul Deb was not entitled for recruitment to the post of Graduate Teacher because of the fact that 18 months course was

allowed by the Hon'ble Supreme Court of India as One Time Relaxation for in-service teachers and the petitioner at the time of application was not serving and thus, her candidature was rightly refused by the authority and she was not entitled to get the appointment.

7. Learned Addl. G.A. further drawn the attention of the Court referring one judgment of the Hon'ble Supreme Court of India reported in **(2024) 15 SCC 227 [titled as Jaiveer Singh and others vs. The State of Uttarakhand and others]** wherein in para Nos.48 and 53, Hon'ble the Apex Court observed as under:

"48. Assuming for a moment that the 18 months' DEIEd Diploma by NIOS through ODL mode is equivalent to the 2 years' Diploma in Elementary Education recognised under the Notifications of NCTE dated 23-8-2010 and 29-7-2011, the next question that has to be answered is, can the State be prohibited from prescribing the minimum qualifications which is higher than that. A similar question arose for consideration in *S. Satyapal Reddy v. State of A.P.* [*S. Satyapal Reddy v. State of A.P.*, (1994) 4 SCC 391 : 1994 SCC (L&S) 914] , wherein this Court observed thus: (SCC p. 396, para 7)

"7. ... The Governor has been given power under the proviso to Article 309 of the Constitution, subject to any law made by the State Legislature, to make rules regulating the recruitment which includes prescription of qualifications for appointment to an office or post under the State. Since the Transport Department under the Act is constituted by the State Government and the officers appointed to those posts belong to the State service, while appointing its own officers, the State Government as a necessary adjunct is entitled to prescribe qualifications for recruitment or conditions of service. But while so prescribing, the State Government may accept the qualifications or prescribe higher qualification but in no case prescribe any qualification less than the qualifications prescribed by the Central Government under sub-section (4) of Section 213 of the Act."

[emphasis supplied]

53. That leaves us with the reliance placed by the learned counsel for NCTE on the judgment of this Court in *Ram Sharan Maurya* [*Ram Sharan Maurya v. State of U.P.*, (2021) 15 SCC 401 : (2024) 1 SCC (L&S) 576] . There can be no doubt that NCTE, as an expert body, has a right to prescribe the minimum qualifications. In the present case itself, by Notifications dated 23-8-2010 and 29-7-2011, NCTE has done so. As already discussed hereinabove, recognition order dated 22-9-2017 only provides a window for in-service teachers to complete their course prior to 1-4-2019. As such, the said judgment does not apply to the present case."

Referring the same, Learned Addl. G.A. submitted that the observation made by Hon'ble the Supreme Court in the aforementioned case does not cover the case of the present petitioner namely Smt. Mithu Paul Deb and other petitioners of the connected writ petition.

8. Learned Addl. G.A. further drawn the attention of the Court that from the marksheet (Annexure-2), it will transpire that the result was declared on 07.02.2022, which was beyond the stipulated period and as such, on the basis of that marksheet of NIOS, she is not entitled to get any protection. Similarly, other petitioners are not entitled to get any protection as they are also in the same footing like Mithu Paul Deb and prayed for dismissal of the writ petitions.

9. The respondent No.8-NCTE also filed counter affidavit. In para Nos.4, 5, 6, 7 and 8, it has been stated as under:

"4. That your humble deponent respectfully submits that, by virtue of the 2017 Amendment Act, a Second Provision was inserted into Sub-Section (2) of Section 23 of the RTE Act, with retrospective effect from 1st April 2015. This provision mandates that every teacher appointed or holding a position as on 31st March 2015, who does not possess the minimum qualifications specified under Sub-Section (1), shall acquire such minimum qualifications within a period of four years from the date of commencement of the 2017 Amendment Act.

Further, it is submitted that in exercise of the powers conferred under Sub-Section (1) of Section 23 of the RTE Act, the Central Government authorized Respondent No. 8, the NCTE, as the academic authority to prescribe the minimum qualifications for eligibility for appointment as a school teacher. Accordingly, the NCTE issued a notification dated 23rd August 2010, prescribing the minimum qualifications required for the recruitment of teachers.

A copy of the Notification dtd.23.08.2010 is annexed herewith and marked as ANNEXURE-A.

5. That your humble deponent begs to state that thereafter, the Central Government, in exercise of its powers under Section 29 of the National Council for Teacher Education Act, 1993, issued a direction recognizing the National Institute of Open Schooling (NIOS). Accordingly, a recognition order dated 22.09.2017 was issued by the Northern Regional Committee of the National Council for Teacher Education, exercising its powers under Sections 14(3)(a) and 15(3)(a) of the NCTE Act, as well as Clause

7(6) of the NCTE (Recognition Norms and Procedure) Regulations, 2014. This order granted recognition to the D.El.Ed. programme-an 18-month course including a 6-month internship-for untrained teachers appointed on or before 10th August 2017.

A copy of the recognition order dtd.22.09.2017 is annexed herewith as ANNEXURE-B.

6. That your humble deponent begs to state that the Hon'ble Supreme Court in Jaiveer Singh and Others Vs. The State of Uttarakhand and Others vide judgment dated 28.11.2023 had stated:

"41. In view of what has been held by this Court hereinabove, we find that the High Court erred in holding that 18 months Diploma conducted by NIOS through ODL mode is equivalent to the 2 years regular Diploma, particularly so, when there was no material placed on record to even remotely hold that such a qualification was recommended by the Expert Body NCTE."

On the contrary, the communication dated 6th September 2019 of NCTE, the directives of MHRD so also the recognition order dated 22nd September 2017 clearly go on to show that the 18 months Diploma was provided as a onetime window to the in-service teachers to acquire the minimum qualifications between the 2017 Amendment Act and the outer limit of 1st April, 2019. In our considered view, the High Court has totally erred in holding that the 2 years Diploma is equivalent to 18 months Diploma."

7. That your humble deponent further begs to state that the Hon'ble Supreme Court in Viswanath & others V/S The State of Uttarakhand in Review Petition of 2024 (Dairy NO. 4961 of 2024) in Civil Appeal No.7872 of 2023 vide order dated 10.12.2024 again clarified about the 18 months D.El.Ed obtained from NIOS which is quoted below:

"2. We have already clarified in judgment under review that the one-time scheme was provided solely to safeguard the interest of those teachers who were employed as on 10.08.2017. We are, therefore, not inclined to entertain the present review petitions as well as miscellaneous applications.

3. However, to avoid any confusion, we again clarify that the 18 months diploma obtained by such persons, who were in employment so on 10.08.2017 and who have completed the diploma course of 18 months, would be treated as valid diploma holders for the purpose of applying in other institution or for promotional avenues".

8. Your humble deponent respectfully submits that the NCTE, by its letter bearing F.No. NCTE-Reg1011/166/2017-US (Regulation)-HQ dated 27.01.2025, has forwarded the order dated 10.12.2024 of the Hon'ble Supreme Court to all Secretaries/Commissioners of the Education Departments of the States and other concerned authorities for necessary compliance, along with a copy of the said order dated 10.11.2024.

A copy of the letter dtd.10.12.2024 is annexed herewith and marked as ANNEXURE-C"

10. Similarly, the respondent No.10 filed their counter affidavit and in para Nos.4 and 6, the said respondent submitted as under:

"4. That, with reference to paragraph 5 of the Writ Petition, the petitioner has correctly stated that the petitioner has successfully completed the Diploma in Elementary Education (D.El.Ed.) for the Session 2017-19 but categorically denies baseless allegations that due to administrative delays the result was declared on 07.02.2022. The petitioner has erroneously asserted that the result of the Diploma in Elementary Education (D.El.Ed.) for the Session 2017-19, for which the examination was conducted in March 2019 and petitioner was a learner, and result was declared on 22.05.2019. The date mentioned on the marksheets represents the actual date on which the result document was printed. When a result or admission record is corrected, upgraded, or revised, the date on the updated result documents may differ from the original. In such cases, after incorporating the requested corrections and issuing the revised document to the learner, thus the marksheets reflect the actual date of printing of the result.

It is hereby clarified that the date of declaration of results for the D.El.Ed. for Session 2017-19 in which the petitioner was a learner was indeed 22.05.2019, and the date mentioned 07.02.2022 as shown in the marksheets pertains solely to the date of printing of the marksheets.

6. That, with reference to paragraph 21 and 22 of the Writ Petition, these are matters of records and anything contrary thereto is denied and disputed by the respondents No.10. I, beg to state and reiterate my submissions as made above that, the result declaration of D.El.Ed. examination held in March 2019 was declared on the 22.05.2019. The Respondent No. 10 also would again like to clarify and state that the date 07.02.2022 indicated in the marksheets is the actual date of printing of marksheets. The Notification regarding the clarification of the declaration of result date issued by competent authority of Respondent no 10 with office reference no. F.7-104/2018/NIOS/EVAL./D.EL.ED/V-003 Dated 05-01-2024 is annexed with this affidavit as ANNEXURE No.C/1."

However, at the time of hearing, Learned Counsel for the said respondent submitted that the petitioners in both the writ petitions performed their courses within the stipulated period i.e. within 31.03.2019 although their result was declared on 22.05.2019 and it was further clarified that "07.02.2022" indicated in the marksheets is the actual date of printing of the marksheets.

11. In WP(C) No.242 of 2025, all the petitioners prayed for appointment for the post of Under Graduate teacher(UGT) and in WP(C) No.243, the sole petitioner prayed for appointment for the post of Graduate Teacher(GT). For the sake of convenience, the reliefs sought for by the petitioner(s) are mentioned herein below:

In WP(C) No.242 of 2025

(i) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to consider the names of the Petitioners for recruitment to the post of Under Graduate Teacher (UGT), holding them eligible and qualified for such recruitment.

(ii) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to include the names of the Petitioners in the recommended list for recruitment to the post of Under Graduate Teacher (UGT), published vide Notification, dated 03.04.2025 (supra) & consequently, re-publish said List by including the names of the Petitioners therein.

AND

Call for the records pertaining to the instant Writ Petition from the custody of the Respondents and to make the rule absolute.

AND

After hearing both the parties pass order/orders as this Hon'ble High Court considers to be fit and proper.

AND

For this act of kindness, your humble Petitioners, as in duty bound, shall ever pray.

In WP(C) No.243 of 2025

(i) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to consider the name of the Petitioner for recruitment to the post of Graduate Teacher (GT), holding her eligible and qualified for such recruitment.

(ii) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to include the name of the Petitioner in the recommended list for recruitment to the post of Graduate Teacher (GT), published vide Notification, dated 03.04.2025 (supra) & consequently, re-publish said List by including the names of the Petitioner therein.

AND

Call for the records pertaining to the instant Writ Petition from the custody of the Respondents and to make the rule absolute.

AND

After hearing both the parties pass order/orders as this Hon'ble High Court considers to be fit and proper.

AND

For this act of kindness, your humble Petitioner, as in duty bound, shall ever pray.

12. I have heard the parties at length and perused the documents annexed with the writ petition filed by the petitioners as well as the counter affidavits along with the documents submitted by the

contesting respondents. After hearing the parties, the crux question to be decided by this Court in both this writ petition will be as follows:

"Whether the NIOS D.El.Ed diploma conducted by the petitioners in both the writ petitions can be treated as equivalent to 2 years diploma as per the recruitment notification dated 12.12.2024 published by TRBT?"

To substantiate the aforesaid point, both the parties have submitted their contentions supported by documents.

13. It was the case of the petitioners that in pursuance of the direction of the Hon'ble Apex Court, the teachers who were already in employment as on 10.08.2017 would be entitled to the benefit of One Time Scheme provided by the Government of India and the teachers who have completed the Diploma course of 18 months would be treated as valid diploma holders for the purpose of applying in other institutions or for promotional avenues. It was also the case of petitioners that all the petitioners of WP(C) No.242 of 2025 and WP(C) No.243 of 2025 were in employment on 10.08.2017 and they have completed their courses by 31.03.2019 and the result was declared on 22.05.2019 but in the marksheet of the candidates, 07.02.2022 was mentioned which indicated the actual date of printing of the marksheet. So, referring the judgment of the Hon'ble Supreme Court as discussed earlier and also the recognition order of NCTE and other communications, Learned Counsel for the petitioner submitted that they are entitled to employment for the posts they applied for in pursuance of the notification dated 12.12.2024 issued by TRBT for the post of Under Graduate Teachers and Graduate Teachers. It was also submitted that inspite of issuing of advertisement all the posts could not be filled up and a considerable number of posts are still lying

vacant. So, the petitioners of both the writ petitions are entitled to get the employment since they have fulfilled the recruitment criteria and could qualify the examination but their candidatures were not considered by the authority. It was further submitted that the contesting respondent No.8 in both the writ petitions and respondent No.10-NIOS in WP(C) No.243 of 2025 also admitted the case of the petitioners.

14. On the contrary, it was the case of the State-respondents that recruitment rule does not permit the case of the petitioners and the petitioner of WP(C) No.243 of 2025 was not in employment and in the application format, she mentioned that she was out of employment and as such, she is not entitled to get any employment in this case. In WP(C) No.242 of 2025, Learned Addl. G.A., Mr. Mangal Debbarma also reiterated the same submission made by Mr. Karnajit De, Learned Addl. G.A. in WP(C) No.243 of 2025. It was the further stand of the State-respondents that 18 months diploma obtained through NIOS by the petitioners cannot be treated as equivalent to 2 years diploma and furthermore, the judgment of the Hon'ble Supreme Court in **Jaiveer Singh(supra)** does not support the case of the petitioners. Furthermore, as per recruitment notification, there was no such condition precedent that on the date of application for the posts to be applied for, the candidate should be in employment.

15. I have gone through the judgment referred by the parties. By order dated **10.12.2024** in **Viswanath(supra)**, Hon'ble the Supreme Court has very specifically mentioned that 18 months diploma obtained by such persons, who were in employment as on

10.08.2017 and who have completed the diploma course of 18 months, would be treated as valid diploma holders for the purpose of applying in other institutions or for promotional avenues and that clarification itself shows that Hon'ble the Supreme Court granted one time window to the in-service untrained teachers to acquire the minimum qualifications. Since the present petitioners were in employment on 10.08.2017 and as such, the stand of the State-respondents that the 18 months D.El.Ed course completed by the present petitioners cannot be treated as valid and also cannot be sustained in the eye of law. Furthermore, since the NCTE by recognition order dated 22.09.2017 has acknowledged the said D.El.Ed course through NIOS in respect of in-service untrained teachers at elementary level working in government/government aided and unaided private schools in the country and the same has been acknowledged by the Government of India, Ministry of Human Resource Development, as such, there is no such scope on the part of the State-respondents to take a different stand. In this regard as already stated, a communication was forwarded by Deputy Secretary to the Government of India, Ministry of Human Resource Development to the Chairperson, NCTE wherein it was specifically mentioned that regarding training of untrained in-service elementary teachers in the Government/Government aided/unaided private schools, an amendment to Section 23(2) of the RTE Act to extend the period for such training to 31st March, 2019 has been passed by the Parliament. It was further stated that NIOS will be only singular organization responsible for conducting the online D.El.Ed programme through

SWAYAM portal for all in-service untrained teachers and the tentative number of in-service untrained teachers was around 11 lakhs and the NIOS was to complete all the academic activities by 31st March, 2019. It was further mentioned that the D.El.Ed course will be from 3rd Oct, 2017 to 31st March, 2019. The duration of the course will be for 18 months. As the D.El.Ed. programme is of 2 years, NCTE shall allow subsuming 6 months internship period within the duration of the proposed Online course through SWAYAM portal as all the teachers are in-service and are/were already teaching.

Also, from the contents of the communication dated 03.08.2017, it is very much specific that the decision was taken by the Parliament after amendment of Section 23(2) of the RTE Act regarding extension of training till 31st March, 2019. Since the petitioners fulfilled all the criteria and undergone training within the stipulated period as desired by NCTE, so, in the considered opinion of this Court, the respondent-authority cannot take a different stand ignoring the guidelines and decision of the Government of India as well as the NCTE being the sole academic authority to formulate academic guidelines for appointment of teachers across the country.

16. Situated thus, there was no such scope on the part of the respondent authority not to include the names of the petitioners in the final selection list as qualified/selected for appointment to the posts of Graduate and Undergraduate teachers.

17. In the result, both the writ petitions filed by the petitioners are hereby allowed. The respondent-authority is hereby asked to include the name of the petitioners in the recommended list dated

03.04.2025 for recruitment to the post of Graduate Teacher and Under Graduate Teachers for which the petitioners have applied, within a period of 6(six) weeks from the date of passing of this judgment/order.

With this observation, both the writ petitions stand disposed of.

Pending applications(s), if any, also stands disposed of.

JUDGE

