

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

+ W.P.(C) 2970/2015 & C.M.No.5313/2015 (Stay)

% **27th March, 2015**

MS. LALITA Petitioner
Through: Mr.M.Rais Farooqui, Advocate.

versus

NORTH MUNICIPAL CORPORATION OF DELHI & ANR.
..... Respondents
Through: Mr.Pratap Singh, Advocate for R-1.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. Petitioner in this case seeks appointment as an Assistant Teacher (Primary) with the respondent no.2/School, however, admittedly petitioner does not have the qualification of Central Teacher Eligibility Test (CTET) which is required for being appointed as a Primary Teacher in the School.

2. I have considered this aspect in the judgment in the case of ***Ruchika Arora & Ors. Vs. Union of India & Ors.*** in W.P.(C) No.2544/2013 decided on 22.4.2013, and in which judgment I have held that if a person does not have CTET qualification which is required by virtue of notification issued under the Right of Children to Free and Compulsory Education Act, 2009,

such a person cannot be appointed as a teacher in a school. The relevant paragraphs of the judgment in the case of *Ruchika Arora (supra)* are paragraphs nos. 1 to 8, and which read as under:-

“1. This writ petition is filed by 34 persons. Irrespective of prayer clauses in the writ petition, what the petitioners effectively claim is that they should be held entitled to appear in the examination and thereafter get appointed as Special Education Teachers with the Government of National Capital Territory of Delhi.

2. Applicants, as per the advertisement number 1/13 (which is filed as Annexure P-2 to the writ petition) for appointment as a Special Education Teacher in Directorate of Education, besides having the qualification of being a graduate with B.Ed (Special Education), must also have passed the Central Teacher Eligibility Test (CTET) conducted by CBSE. Petitioners are the aspirants for the advertised posts.

3. The requirement of teachers, holding the other qualification, of clearing the CTET Test conducted by CBSE, was as to bring about better education standards. Powers were accordingly exercised by the appropriate authority from time to time under the Right of Children to Free and Compulsory Education Act, 2009. The National Council for Teacher Education vide its circular dated 11.2.2011 has issued the guidelines for conducting Teacher Eligibility Tests under the Right of Children to Free and Compulsory Education Act, 2009. CTET examinations are accordingly being conducted for the teachers.

4. Petitioners admittedly do not have the CTET qualification. They have not appeared for the CTET examination, and thus do not have the CTET qualification. The petitioners yet claim that they should be entitled to apply for and seek appointment pursuant to the Advertisement No.1/13 (Annexure P-2) issued by the Government of National Capital Territory of Delhi.

5. To seek the relief of appearing in the exam without CTET qualification great stress is laid on behalf of the petitioners on the following aspects:-

(i) The circular dated 11.1.2012 issued by the Rehabilitation Council of India giving the qualifications for appointment of Special Education Teachers not requiring CTET qualification.

- (ii) The fact that there is lack of Special Education Teachers who are to be appointed for the special children.
- (iii) CTET qualification is required only for languages, social studies, mathematics, science etc etc and therefore, the CTET qualification is not required for appointment as special teachers.
- (iv) There is similarity in the subjects which have been qualified by the petitioners when compared with the subjects in the CTET exam to be conducted, and therefore, it is claimed that once there is similarity in subjects, petitioners are entitled to seek employment without obtaining CTET qualification.

6. In my opinion, the writ petition is clearly misconceived for the reason that this Court cannot sit in the place of the appropriate authority which decides qualifications for being employed as teachers. In the present case, so far as the employer is concerned, being the National Capital Territory of Delhi, it has quite clearly been prescribed in the advertisement that the Special Education Teachers must have CTET qualification. I do not think that there is any illegality or absurdity in any employer asking that to seek appointment/employment as a teacher, he/she must have CTET qualification, and which qualification was to bring about a higher standard of education. The circular dated 11.1.2012 of the Rehabilitation Council of India does not in any manner support the petitioners' case inasmuch as though the qualifications with respect to teachers of different classes have been specified in the said circular (which is filed as Annexure P-7), however, the said circular begins with the expression "minimum requirement" i.e the requirements as mentioned for appointment as Special Education Teachers must consist of at least those qualifications which are specified in the circular dated 11.1.2012 i.e it does not mean that any employer cannot insist that teachers must have additional CTET qualification. Therefore, the contention of the petitioners that the petitioners are entitled to sit in the examination and seek appointment without CTET qualification is misconceived and rejected.

7. So far as the issue of there not being adequate numbers of Special Education Teachers is concerned, first of all I cannot believe such a self serving averment that there are not enough Special Education Teachers having CTET qualifications because there is no basis on facts and documents to substantiate the same. In my opinion, this is an issue which the appropriate authorities will consider, including the authorities which are seeking employment for the Special Education Teachers. However, Courts cannot interfere in matters, merely on presumptive issues of there not existing adequate number of teachers.

8. Counsel for the petitioner placed reliance on an order dated 16.9.2009 in W.P.(C) No. 6771/2008 that there are not enough qualified Special Education Teachers, however, that order was passed in the year 2009 and today we are in 2013. Also, we cannot take observations made in an order out of context, specially, the writ petition being W.P.(C) No. 6771/2008 was towards various larger issues, and the said writ petition was a public interest litigation on various aspects of education in Delhi.”

3. Since, admittedly, the petitioner does not have the CTET qualification and no notification has been issued by the government exempting the requirement of CTET qualification for being appointed as a Primary Teacher, the petitioner hence cannot be appointed in the absence of the CTET qualification.

4. Counsel for the petitioner argues that the petitioner has worked for a long period in the respondent no.2/School, and therefore exemption be granted, however, exemption cannot be granted by this Court and exemption can only be granted by the government by issuing an appropriate notification, and which aspect is considered and decided in the judgment delivered by the Central Administrative Tribunal in the case of ***Deep Chandra Tiwari & Ors. Vs. Delhi Subordinate Services Selection Board (DSSSB) & Ors.*** in OA No.3225/2013 and other connected petitions decided vide judgment dated 12.2.2015.

5. Reliance placed by the counsel for the petitioner upon a Division Bench judgment of the Punjab and Haryana High Court in the case of WP(C) No. 2970/2015

Shivani Gupta and Ors. Vs. State of Haryana and Ors. in Civil Writ Petition No.15929/2012 along with connected petitions decided on 21.12.2012 is misconceived because that judgment deals with the factual position wherein as per the concerned statute itself exemption was provided.

6. Dismissed.

MARCH 27, 2015
KA

VALMIKI J. MEHTA, J.