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

+ W.P.(C).189/2016

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Judgment dated 11th January, 2016

NEELAM

..... Petitioner

Through : Mr. Ashok Agarwal with Mr. Anuj
Agarwal, Advocates

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through : Mr. Anuj Aggarwal with Ms. Niti Jain,
Advocates for respondents no.1 and 2.
Mrs. Bharathi Raju, CGSC for respondent
no.4/UOI.
Mr. Amit Bansal with Ms. Seema Dolo &
Mr. Akhil Kulshrestha, Advocates for
respondent no.5.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Challenge in this writ petition is to the order dated 12.02.2015 passed by the Central Administrative Tribunal(hereinafter referred to for short as 'the Tribunal') by which the Tribunal while setting aside Clause 4 of the Guidelines dated 08.11.2010 declined to allow other reliefs as sought by the petitioner in the OA filed before the Tribunal.
2. The necessary facts to be noticed are that the respondents had issued an Advertisement no.01/13(Post Code 01/13) for the post of Special Education Teacher under Directorate of Education, Government of NCT of Delhi. In response to the aforesaid advertisement, the petitioner applied for the post of Special Education Teacher under the Directorate of Education. It is the case of the petitioner that at the time of submission of the form, though her

result for the previous Central Teacher Eligibility Test(CTET) examination was awaited, but being of the view that the petitioner would be able to clear the same, she marked herself as 'CTET-qualified' in the form. However, on receiving her CTET result later on, she came to know that she had not been able to clear the CTET Exam and missed the qualifying mark by a few points.

3. The petitioner was issued an admit card for the exam for the Post Code 01/13 and she appeared in the exam held on 28.04.2013. It is the case of the petitioner that as the petitioner apprehended that her candidature will be rejected inasmuch as she was not CTET qualified at that point of time, she made a representation to the respondents no.1, 3 and 4 requesting them that the petitioner may be granted two year's time for acquiring CTET qualification and, in the meanwhile, she may be considered for recruitment to the post of Special Education Teacher in terms of the advertisement no.01/13. However, no response to the aforesaid representation was received by the petitioner.
4. Thereafter, the petitioner approached the Central Administrative Tribunal seeking the following prayers:
 - “(i) Issue an appropriate order or direction thereby quashing the clause 4 of the impugned guidelines dated 08.01.2010 of the Ministry of Human Resource Development, respondent no.4, whereby the said respondent no.4 in clause 4 thereof has provided that the conditions of passing TET shall not be relaxed by the Central Government, being arbitrary, discriminatory, illegal, unconstitutional and violative of Art. 14,15,16,21 and 21-A of the Constitution of India and contrary to the provisions of RTE Act, 2009 against Public Interest and opposed to public policy.
 - (ii) Issue an appropriate order or direction thereby directing the respondents no.1 and 2 to take up the matter with the Central Government for grant of relaxation in the matter of CTET qualification to the applicant for a period of 2 years in terms of Section 23(2) of the RTE Act, 2009.

- (iii) Issue an appropriate order or direction thereby directing the respondent no.4/Central Government to consider the case of the applicant for grant of relaxation in the qualification of CTET upto March 31,2015.
- (iv) Issue an appropriate order or direction thereby directing the respondent no.3/DSSSB not to reject the candidature of the applicant on the ground of non-qualification of CTET until the disposal of the applicant's representation by the respondents."

5. The Tribunal has allowed the OA filed by the petitioners and quashed Clause 4 of the Guidelines dated 08.11.2010. While disposing of the OA, the following directions have been issued:

"In view of the aforementioned, we set aside Clause 4 of the impugned guidelines issued vide No.1-15/2010-EE-4 dated 08.11.2010(Annexure A/1). It would be open to the respondents to take up the matter for exercise of the powers conferred upon the Central Government under Section 23(2) of the Right of Children to Free and Compulsory Education Act, 2009, as per procedure laid down in the aforementioned guidelines. The OA stands disposed of."

6. Counsel for the petitioner submits that, at this stage, the petitioner would be satisfied if a time limit is fixed to enable the respondents to consider the case of the petitioner under Section 23(2) of the Right of Children to Free and Compulsory Education Act, 2009, as per procedure laid down in the Guidelines.
7. Counsel for the respondents enter appearance on an advance copy.
8. We find the prayer of the counsel for the petitioner to be fair and just. Accordingly, we direct the respondents no.1 and 2 to comply with the order dated 12.02.2015. We also direct the respondents no.1 and 2 to consider the case of the petitioner within a period of eight weeks from the date of receipt of this order in accordance with law. This order is without prejudice to the rights and contentions of the parties.

9. The petition stands disposed of.
10. CM.APPL 762/2016 also stands disposed of.
11. Dasti to the parties under the signature of Court Master.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

JANUARY 11, 2016
pst