

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

-.-

CWP No. 28681 of 2013.

Date of decision: 07.09.2017

Balwan Singh

...Petitioner

Vs.

State of Haryana & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Alka Chatrath, Advocate, for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

G.S.SANDHAWALIA, J. (Oral).

The petitioner seeks consideration for appointment against 8763 posts of J.B.T/Primary Teachers published vide advertisement No.2 of 2012, dated 08.11.2012 (Annexure P/2) on the ground that he had passed the Uttar Pradesh Teachers Eligibility Test, 2013 (Primary Level) conducted by Examination Regulatory Authority, Allahabad. The eligibility condition and the essential qualifications wherein the requirement is to have qualifying the Haryana Teacher Eligibility Test/School Teachers Eligibility Test, and his rejection of candidature on the ground is also challenged.

The said issue as to which would be the appropriate Government in terms of the Right of Children to Free and Compulsory Education Act, 2009 (RTE) by virtue of which the said requirement has been made mandatory, was subject matter of consideration before the Division Bench in Civil Writ Petition No. 346 of 2013 titled as "Antim Kumari Vs. State of Haryana & Ors.", decided on 29.04.2015. One of the question which was subject matter of consideration before Division Bench

was:-

“(ii) Whether the candidates who have qualified CTET during the year 2012 when no STET was held, are entitled to claim eligibility for the advertised posts in terms of guidelines issued by NCTE?”

The Division Bench, accordingly, came to the conclusion that the State government was appropriate government in relation to the school established in the territory of State other than the schools owned and controlled by the Central Government and, therefore, as prescribed by the National Council for Teachers Education, which is the academic authority in terms of mandate of the RTE Act, the eligibility was to be for Teachers Eligibility Test to be conducted by the State Government. The relevant observations reads as under:-

“ We have already noticed above that as per Section 23 of the RTE , a person to be appointed as a teacher in an elementary school is required to possess such minimum qualification as is prescribed by the academic authority to be notified by the Central Government. The National Council for Teachers Education has been notified as such authority by the Central Government. Vide notification dated 23.08.2010 issued in accordance with Section 23(1) of the RTE Act , the National Council for Teachers Education specified that passing of a teachers eligibility test to be conducted by the appropriate Government would be one of the essential qualifications for a person to be eligible for appointment as a teacher in classes I to VIII.

As per Section 2 of the RTE Act, the State Government is the appropriate Government in relation to a school established within the territory of the State Government other than a school established, owned or controlled by the Central Government. Thus, for recruitment of Primary Teachers for State Government Schools, the State Government is the appropriate Government. And as prescribed by the NCTE, which is the academic authority in terms of the mandate of the RTE Act, passing of a teachers eligibility test to be conducted by the State Government is one of the essential qualifications for eligibility for appointment as Primary Teacher. The NCTE has in its affidavit referred to above clarified that the guidelines relied upon by the Ld .Counsel for the petitioners are directory in nature.

Keeping in view the above, this Court is of the opinion that the matter is covered by the above said observations and the petitioner cannot claim any benefit of the certificate issued by Uttar Pradesh Examination Regulatory Authority.

Accordingly, the present writ petition is dismissed.

September 07, 2017
tripti

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No