

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

+ **W.P.(C) No.3560/2007**

% **25th January, 2017**

MRS. USHA RAJPUT Petitioner

Through: None.

versus

PRINCIPAL, C.L. BHALLA DAYA NAND MODEL SCHOOL &
ORS. Respondents

Through: None.

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

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition filed under Article 226 of the Constitution of India, the petitioner impugns the letter dated 9.5.2006 issued by respondent nos.1 and 2/C.L. Bhalla Daya Nand Model School whereby the petitioner was directed to obtain Nursery Teachers Training (NTT) certificate/B.Ed. from a recognized institute within two years from the date of issuance of letter dated 9.5.2006.

2. The petitioner as per the writ petition pleads that she was appointed in the year 1984 as a nursery teacher when the petitioner had

shown all her relevant documents and hence was granted appointment as a nursery teacher. Petitioner pleads that on account of *malafides* the respondent nos.1 and 2/school issued its impugned letter dated 9.5.2006, and which cannot be done, because the same is after the petitioner has served for almost 20 years with the school and the petitioner's certificates were checked when petitioner was initially granted appointment. Petitioner also pleads that National Council for Teacher Education Act, 1993 (hereinafter referred to as 'the NCTE Act') cannot be applied retrospectively for persons who have been appointed before the NCTE Act came into force and thus petitioner is not required to have the Nursery Teachers Training (NTT) certificate qualification from a recognized institute.

3. The counter affidavit which is filed by the respondent nos.1 and 2/school shows that the petitioner was asked to give her valid certificate and her valid qualifications because of the order of the Director of Education dated 12.8.2004, and which was issued to ensure that only qualified teachers were appointed in schools in Delhi. The entire issue with respect to unqualified teachers teaching in schools, and which should not happen, came in view of various orders passed by a Bench of this Court in CWP No.8765/2004 titled ***Chhipiwara***

Welfare Society Vs. Govt. of NCT, Delhi & Ors., wherein the issue was of teaching of students in Delhi by unqualified teachers. Petitioner's NTT certificate was found not to be from a recognized institute as petitioner has obtained her NTT certificate from M/s. R.G. Polytechnic (R.G. Educational & Technical Education Training Sanstha), Delhi which was not recognized by the competent authority. Petitioner therefore by the impugned letter dated 9.5.2006 was asked to get the necessary certificate from a recognized institute within two years. In the counter affidavit of the respondent nos. 1 & 2/school, reference is made to the orders of the Director of Education passed on account of the judicial directions passed in CWP No. 8765/2004 titled ***Chhipiwara Welfare Society Vs. Govt. of NCT, Delhi & Ors.,*** and consequently the Director of Education writing letters to the respondent nos. 1 & 2/school seeking that teachers of the schools must be appropriately qualified. The letter of the school dated 27.7.2005 issued to the petitioner is on the basis of letters of the Director of Education. In the counter affidavit of the respondent nos. 1 & 2/school, reference is made to the report dated 22.3.2006 prepared by the Deputy Director of the Education with respect to inspection conducted in schools as regards the qualifications of teachers, and in

para 2 of this report dated 22.3.2006 the name of the petitioner/Mrs. Usha Rajput is specifically mentioned as an unqualified staff.

4. At the time when notice was issued in this writ petition on 14.5.2007 the impugned order dated 9.5.2006 was stayed and which interim order was made absolute on 1.8.2008 when the writ petition was admitted for hearing.

5. It is seen that although respondent nos. 1 & 2/school and the respondent no. 3/Director of Education have filed detailed counter affidavits to the petitioner not having the educational qualification/NTT certificate from a recognized institute yet the petitioner has chosen not to file any rejoinder to challenge this fact. I may also note that the petitioner through her Advocate's notice dated 23.5.2005 admits in para 4 of the notice that the institute from where petitioner obtained NTT qualification was not from a recognized institute, and it was contended by the petitioner that there cannot be retrospective application of the NCTE Act. This para 4 of the notice of the petitioner's Advocate dated 23.5.2005 reads as under:-

"4. That as regards the qualifications of my clientesses, my clientesses have already stated in their legal notice that they are duly qualified teachers and even though the name of the institutes from where they completed the course of Nursery Teacher Training does not exist in the list of approved institutes published by N.C.T.E. yet they cannot be termed as un-qualified by N.C.T.E. yet they cannot be termed as un-

qualified because they have been working since more than 15 years in the school and the N.C.T.E. Act came into existence only in the year 1995. The list of approved institutions which has been published by the N.C.T.E. is pertaining only to the institutions which were functioning at the time of their approval. My clientesses cannot be termed as unqualified teachers in any sense. They have the requisite qualifications as having done NTT course from the reputed institute even though those institutes are not functioning now-a-day.”

6. In my opinion, the petitioner is not justified in contending that the NCTE Act is being retrospectively applied because the issue would be of retrospective application only if the petitioner is not given time to obtain the necessary educational qualification. Petitioner by the impugned letter dated 9.5.2006 was asked to get NTT/B.Ed. certificate from a recognized institute within two years, but, the petitioner instead of obtaining the necessary qualification has chosen to file the present writ petition. The respondent no. 3/Director of Education is completely justified in seeking that teachers of school in Delhi must have necessary educational qualifications on account of frauds of unqualified teachers teaching in Delhi, came to light in view of various orders which were passed by a Bench of this Court in CWP No. 8765/2004 titled as *Chhipiwara Welfare Society Vs. Govt. of NCT, Delhi & Ors.* Once the petitioner has been given ample time to get her educational qualification of NTT/B.Ed. certificate within two years, it

cannot be argued that the actions of the respondents are illegal and arbitrary.

7. In view of the aforesaid discussion, this writ petition is dismissed as respondents are justified in asking the petitioner to get the necessary NTT/B.Ed. qualification from a recognized institute, but since there was an interim order which was passed in this case staying the operation of the impugned order of the respondent nos. 1 & 2/school dated 9.5.2006, while dismissing this writ petition, it is ordered that petitioner will obtain the necessary Nursery Teacher Training (NTT)/B.Ed. qualification within a period of two years from today, if not already obtained by the petitioner.

8. The writ petition is accordingly disposed of.

JANUARY 25, 2017
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VALMIKI J. MEHTA, J