

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

CWP-21335-2016 (O&M)
Date of decision : 30.01.2019

Rupinder Kaur

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ranjivan Singh, Advocate,
for the petitioner.

Mr. TPS Chawla, DAG, Punjab.

Mr. Sandeep Jasuja, Advocate,
for respondent No.4.

JITENDRA CHAUHAN, J.

The petitioner, *inter alia*, seeks quashing of Clauses 2 and 3 contained in advertisements dated 20.11.2015 (Annexures P-1 and P-2), whereby, mandatory requirement of passing the Punjab State Teachers Eligibility Test-2 (PSTET-2) as conducted by the State of Punjab has been prescribed.

It is submitted that the petitioner appeared in the PSTET-2 examination conducted by the respondent-State in the year 2015 but could not clear the same. Thereafter, the petitioner appeared in the Central Teacher Eligibility Test (CTET) conducted by the Central Board of Secondary Education, New Delhi, in the month of September, 2015 and cleared the same. However, the candidature of the petitioner was rejected

on the ground of non-passing of PSTET-2 examination whereas, the petitioner has already cleared equivalent CTET examination.

On the other hand, learned State counsel has vehemently argued that the petitioner did not possess the requisite qualification of passing PSTET-2 examination, therefore, her candidature has rightly been rejected.

Learned counsel for NCTE admits that the guidelines in question are directory in nature and in case, the State does not hold TET every year, it may or may not consider the candidates who have passed CTET or TET conducted by any other State.

Heard.

Before proceeding further, it would be apt to refer to the relevant provisions of the Right of Children to Free and Compulsory Education (RTE) Act, 2009. Section 23 of the Act, reads as under:-

Section 23. Qualifications for appointment and terms and conditions of service of teachers

(1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorized by the Central Government, by notification, shall be eligible for appointment as a teacher.

(2) Where a State does not have adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be

specified in that notification:

PROVIDED that a teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of five years.

(3) The salary and allowances payable to, and the terms and conditions of service of, teachers shall be such as may be prescribed.

Further, the applicability of the CTET has been specified on the website of Central Board of Secondary Education, which reads thus:-

“ ‘*Applicability*’

- i. That CTET shall apply to schools of the Central Government (KVS, NVS, Central Tibetan Schools, etc.) and Schools under the administrative control of UTs of Chandigarh, Dadar and Nagar Haveli, Daman and Diu, Andaman and Nicobar Inland and NCT of Dehli.*
- ii. CTET may also apply to the unaided private schools, who may exercise the option of considering the CTET.*
- iii. Schools owned and managed by the State Government/local bodies and aided schools shall consider the TET conducted by the State Government. However, a State Government can also consider the CTET if it decides not to conduct the State TET.”*

A bare perusal of the above provisions show that only those

State Governments which decide not to conduct the State TET may consider the CTET. Since, the State of Punjab had conducted the PSTET-2, the petitioner was rightly not considered eligible on the basis of her qualifying the CTET.

Accordingly, this Court does not find any merit in the instant writ petition and the same is, hereby, dismissed.

30.01.2019
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(JITENDRA CHAUHAN)
JUDGE

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