

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2553 of 2020**

1. Manoj Kumar Yadav S/o Shri Ganesh Ram Yadav Aged About 46 Years Working As Lecturer (L.B.) and Posted At Govt. Black Uchatar Middle School Chakarbhata Block Bilha, District Bilaspur, Chhattisgarh.
2. Vivek Kumar Yadav S/o Shri Bharatlal Yadav Aged About 37 Years Working As Lecture (L.B.) And Posted At Govt. Higher Secondary School Semarsal Block Lormi District Mungeli Chhattisgarh.
3. Jigyasa Swarnkar S/o Manharan Lal Swarnakar Aged About 36 Years Lecturer (L.B.) Govt. Boys Higher Secondary School Pachpedi Block Masturi, District Bilaspur, Chhattisgarh.
4. Jaiprakash Pandey S/o Dinesh Kumar Pandey Aged About 46 Years Lecturer (L.B.) Govt. Higher Secondary School Ranigaon Block Kota District Bilaspur, Chhattisgarh.

--- Petitioners**Versus**

1. State of Chhattisgarh through Secretary, Department of Education Mahanadi Bhawan, Mantralaya New Raiur, District Raipur, Chhattisgarh.
2. Director State Council of Education Reserch and Training, Shankar Nagar Raipur, District : Raipur, Chhattisgarh
3. Principal Govt. Unnat Siksha Adhyan Sansthan Bilaspur, District : Bilaspur, Chhattisgarh

--- Respondents**WPC No. 25 of 2021**

Ramkumar Soni S/o Shri Premnarayan Soni, Aged About 39 Years Lecturer (L.B.), Govt. Higher Secondary School Tifra, District : Bilaspur, Chhattisgarh

--- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
2. Director, School Education Department, Secretary, Department of School Education, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
3. Director State Council of Educational Research and Training, Chhattisgarh, Shankar Nagar, Raipur, District Raipur Chhattisgarh.
4. Principal, of Advance Studies in Education, Bilaspur, District Bilaspur Chhattisgarh.

--- Respondents

WPC No. 854 of 2021

1. Smt. Sapna Rahi W/o Shri B.P. Bani Aged About 38 Years R/o Rameshwar Nagar, Bhanpuri, District- Raipur, Chhattisgarh.
2. Smt. Poonam Diwan W/o Shri Pranay Diwan Aged About 35 Years R/o Ward No. 13, Near Santoshi Temple, Brahmhan Para, Nawapara, District- Raipur, Chhattisgarh.
3. Shatrughan Singh Netam S/o Shri Birsingh Netam Aged About 49 Years Ward No. 08, Chandani Chouk, Sahaspur, Lohara, District : Kawardha (Kabirdham), Chhattisgarh
4. Smt. Khileshwari Netam W/o Shri Khileshwari Netam Aged About 53 Years Vindhyavashini, Block- Abhanpur, District- Raipur, Chhattisgarh.
5. Smt. Bhopeshwari Choudhary W/o Shri Kaushal Ram Choudhary Aged About 38 Years R/o Quarter No. 13-B, D-Pocket Marouda Sector Bhilai, District- Durg. Chhattisgarh.
6. Smt. Savita Verma W/o Shri Malkham Verma Aged About 43 Years R/o Street No. 19 Aadarsh Nagar, Mowa, Raipur, District- Raipur, Chhattisgarh.
7. Miss. Bhawana Bairagi D/o Ajaydass Bairagi Aged About 38 Years R/o Ward No. 15, Baldeobagh, Dauchal, District- Rajnandgaon, Chhattisgarh.
8. Smt. Uma Temburkar W/o Shri Sanjay Temburkar Aged About 42 Years R/o Block- D/10, Anand Vihar, Phase- 2, District- Durg, Chhattisgarh.
9. Smt. Saraswati Raghav W/o Shri S.L. Raghav Aged About 44 Years R/o Behind Satnaam Baalsamaj Telibandha Post Office- Ravigram, District- Raipur, Chhattisgarh.
10. Smt. Madhuri Yadav W/o Shri Shankar Lal Yadav Aged About 42 Years R/o Post Office Khadma, Block- Chhura, District- Gariyaband, Chhattisgarh., District : Gariyabandh, Chhattisgarh
11. Smt. Saraswati Sahu W/o Shri Narrotam Sahu Aged About 39 Years R/o Village- Kopedih, Post- Chandi, Block- Abhanpur, District- Raipur, Chhattisgarh.
12. Smt. Dropati Joshi W/o Shri Arun Kumar Joshi Aged About 44 Years R/o Bru Aata Chakki Sanjay Nagar, Raipur, District- Raipur, Chhattisgarh.
13. Motilal Dewangan S/o Shri Bachhulal Dewangan Aged About 45 Years R/o Ward No. 11, Bandhatola, Road, Sahaspur, Lohara, District : Kawardha (Kabirdham), Chhattisgarh

--- Petitioners**Versus**

1. State of Chhattisgarh Through Secretary, Department of Education Mahanadi Bhawa, Mantralaya Atal Nagar, New Raipur, District- Raipur, Chhattisgarh.

2. Director State Council of Education Research and Training Shankar Nagar, Raipur, Chhattisgarh.
3. Principal Govt. Shikshak Education College, Shankar Nagar, Raipur, District- Raipur, Chhattisgarh. **--- Respondents**

WPC No. 2453 of 2020

1. Padma Patel D/o Shri Vidyanand Patel Aged About 37 Years Lecturer (L.B.), Working At Late Gulabdhhar Diwan Govt. Higher Secondary School, Katnai, Block Akaltara, District Janjgir-Champa, Chhattisgarh.
2. Ranjeeta Adile Wife of Shri Raghuveer Singh Aged About 37 Years Lecturer (L.B.), Working At Govt. Higher Secondary School Khodri, Block Gorela, District Gorela-Pendra-Marwahi, Chhattisgarh.
3. Harikumar Sahu Son of Late Bodhram Sahu Aged About 40 Years Lecturer (L.B.), Govt. Higher Secondary School Chaple, Block Kharsiya, District Raigarh (Chhattisgarh), **--- Petitioners**

Versus

1. State of Chhattisgarh Through The Secretary, Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District : Raipur, Chhattisgarh
2. Director School Education Department, Secretary, Department Of School Education, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur (Chhattisgarh).
3. Director State Council of Educational Research and Training Chhattisgarh, Shankar Nagar, Raipur, District : Raipur, Chhattisgarh
4. Principal Of Advance Studies In Education Bilaspur, District Bilaspur, Chhattisgarh. **--- Respondents**

WPC No. 2622 of 2020

Viyogi Kumar Kashyap S/o Shri Sumrit Ram Kashyap Aged About 34 Years Lecturer (L.B.), Government Higher Secondary School Kastura, Block Duldula, District Jashpur, Chhattisgarh., District : Jashpur, Chhattisgarh **--- Petitioner**

Versus

1. State Of Chhattisgarh, Through The Secretary, Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Director School Education Department, Secretary, Department Of School Education, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Director State Council of Educational Research and Training, Chhattisgarh, Shankar Nagar, Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
4. Principal, of Advance Studies in Education, Bilaspur, District Bilaspur, Chhattisgarh. **--- Respondents**

WPC No. 2926 of 2020

1. Jyoti Dubey W/o Shri Awanish Dubey Aged About 44 Years Working As Lecturer (L. B.) And Posted At Govt. H. S. School Nandaurkalan Block Sakti District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh
 2. Asha Mishra W/o Bajrang Mishra Aged About 43 Years Working As Lecturer (L. B.) And Posted At Govt. H. S. School Salka Nawagaon District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
 3. Sunit Kumar Kindo S/o Suleman Kindo Aged About 35 Years Working As Lecturer (L. B.) And Posted At Govt. H. S. School Ramkola Block Pratappur, District Surajpur Chhattisgarh, District : Surajpur, Chhattisgarh
- Petitioners**

Versus

1. State of Chhattisgarh Through The Secretary, Department of Education, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
 2. Director State Council of Education Reserch and Training Shankar Nagar, Raipur District : Raipur, Chhattisgarh
 3. Principal Govt. Unnat Siksha Adhyan Sansthan Bilaspur , District : Bilaspur, Chhattisgarh
- Respondents**

Mr. C.J.K. Rao, Counsel for the petitioners in WPC No.2622/2020, WPC No.2453/2020 & WPC No. 25/2021

Mr. Ajay Shrivastava, counsel for the petitioners in WPC No. 2553/2020, WPC No.2926/2020 and WPC No.854/2021

Mr. Gagan Tiwari, Deputy Govt. Advocate for the State.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

02.09.2021

1. As the common question is involved in all the petitions, they are heard and decided together.
2. The facts of the case are that the petitioners were initially appointed as Teachers (Shiksha Karmis) Grade-I in the Panchayat Department and later on, they have been

absorbed in Education Department in the year 2018 as Teachers/Lecturers (Local Body). At the time of their induction to the job, the qualification of B.Ed., was not necessary for the lecturers. Subsequently the State Government in exercise of power under Article 309, promulgated the Promotion Rules which is called as *The Chhattisgarh School Education Services (Educational and Administrative Cadre) Recruitment and Promotion Rules, 2019* (for short "Rules 2019") wherein the qualification of B.Ed., was made necessary for the post of Lecturers. Respondent no.3 i.e., State Council of Educational Research and Training (SCERT) issued a notification dated 21.05.2020 whereby certain criteria was laid down for admission in B.Ed., (departmental) course two years course of 2020 to 2022. In such notification, Clause 2.2 lays down that the teachers who are working and holding the qualification of D.Ed/BTI/ Diploma in Elementary Education (D.Ele.Edn) they can also apply, however, the preference would be given to the teachers who are untrained. The petitioners who possess the qualification of D.Ed./BTI/D.Ele.Edn applied for admission in B.Ed. (Departmental) two year course which was refused. Therefore, it was challenged in these petitions and the petitioners by different interim orders were allowed to be admitted provisionally for the course of B.Ed. Now the petitioners contend that though they were allowed to get admitted in B.Ed. course, but they have not been allowed to appear in the examination.

3. Learned counsel for the petitioners would submit that The Chhattisgarh School Education Services (Educational and

Administrative Cadre) Recruitment and Promotion Rules, 2019 prescribed the qualification of lecturer that a person to be appointed as a lecturer should possess the qualification of B.Ed. apart from the Post-graduation or equivalent degree, therefore, if the untrained teachers are given preference, there will be a creation of different class of people who would be promoted subsequently and would march ahead over the petitioners. Therefore, the said classification cannot be made as a criteria by the State Council of Educational Research and Training, (SCERT) as it would be arbitrary and unreasonable.

4. Per contra, learned State Counsel would submit that as per the notification of the SCERT, Clause 2.1 lays down the procedure for untrained Teachers whereas Clause 2.2 provides that the persons who are trained in D.Ed./B.T.I/D.Ele.Ed., are not debarred and they deserve to apply for B.Ed (Departmental) course, but the untrained teachers are being given preference. He would submit that the object behind it to promote the untrained teachers and the petitioners are still holding the different training in D.Ed./B.T.I/D.Ele.Ed. Therefore, with such object the right of petitioners was not curtailed but the untrained teachers were given the preference.
5. Heard learned counsel for the parties. In the given facts of this case, it is the common case of the parties that indisputably the position and the status of the petitioners as on date is that they were appointed as Shiksha Karmis and subsequently were absorbed in Educational Department as Lecturers (Local Body). They were appointed prior to the

Rules of 2019 called as *Chhattisgarh School Education Services (Educational and Administrative Cadre) Recruitment and promotion Rules, 2019* which came into force w.e.f. 05th March, 2019. In such Rules of 2019, the minimum qualification of Lecturer was prescribed in Appendix -1 of Rules 2019 that the lecturer should hold the qualification of Post-graduation or equivalent with second class from a recognized University/institution in any of the following subjects and should possess B.Ed. For the sake of brevity, the relevant part of Appendix-1 of Rules 2019 is reproduced herein below:

(iii) **Lecturer**

Postgraduate/equivalent with second class from a recognized University/Institution in any of the following subjects and B.Ed.

S.No	Subject	Subject Group
1.	Hindi	Hindi
2.	English	English
3.	Sanskrit	Sanskrit/Classics/Acharya
4.	Physics	Physics/Electronics/Applied Physics/Nuclear Physics
5.	Chemistry	Chemistry/Bio-Chemistry
6.	Economics	Economics/Applied Economics/ Business Economics
7.	Political science	Political Science/Public Administration
8.	Geography	Geography
9.	History	History/Indian ancient history
10.	Biology	Botany/Zoology/Life-science/ Biology/Genetics/Micro Biology/ Biotechnology/Molecular Biology/ Plant Physiology and Zoology/ Botany as one of the subject in graduation level
11.	Commerce	Commerce with accountancy/ cost accounting/financial accountancy, as the main subject.
12.	Home science	Home science
13.	Agriculture	Agriculture

14.	Urdu	M.A(Urdu)/Adeeb.A.Fazil (two year course) from Jamia Urdu Aligarh
15.	Mathematics	Mathematics/Applied Mathematics

6. Therefore, the Rules of 2019 prescribes that the qualification of B.Ed., is must for the lecturer meaning thereby for a further promotion from the post of Lecturer to higher one if a particular teacher is not in hold of B.Ed., degree then he/she would be out of the zone of consideration. The SCERT has laid down the guidelines for admission into B.Ed. (departmental) course of 2020-2022 for trained and untrained teachers. Clause 2.2 is relevant and reproduced here-in-below:

2.2 उक्त पदों पर कार्यरत शिक्षक जो कि निर्धारित प्राप्तांक के साथ स्नातक स्तर की परीक्षा उत्तीर्ण है तथा डी.एड./बी.टी. आई./डी.एल.एड. प्रशिक्षित हों तो उन्हें भी आवेदन करने की पात्रता होगी परंतु प्राथमिकता अप्रशिक्षित शिक्षकों को दी जाए।

7. Reading of Clause 2.2 would show that the teachers who are in hold of D.Ed./BTI/D.Ele.Ed. can also apply but preference would be given to the untrained teachers. Therefore, in a given case if untrained teachers and trained teachers under D.Ed/B.T.I/D.Ele.Ed. are working in an institution then the trained teachers would not get the equal right and the untrained teachers would march ahead in the line of preference to apply for B.Ed. Course. Obviously, therefore, after obtaining the B.Ed., he would be at a senior level for consideration of promotion as flow of such teacher may continue for the time immemorial and a trained teacher may not get a chance to apply for B.Ed. (departmental) course. Further the training in D.Ed/BIT/D.Ele.Ed., would be of no use after the Rules of 2019 has come into force.

8. In the opinion of this Court, there is no valid justification to create two classes i.e., one set of persons who are not trained and the other set of persons who are trained. As held by the Supreme Court in case of *All Manipur Pensioners Association v. State of Manikpur AIR 2019 S.C. 3338 : AIROnline 2019 SC 407* Article 14 of the Constitution of India ensures all equality before law and equal protection of laws. A valid classification is truly a valid discrimination. It was held that it is true that Article 16 of the Constitution of India permits a valid classification. However, the very classification must be based on a just objective. The result to be achieved by the just objective presupposes the choice of some for differential consideration/treatment over others. Therefore, a classification to be valid must necessarily satisfy two tests. Firstly, the distinguishing rationale has to be based on a just objective and secondly, the choice of differentiating one set of persons from another, must have a reasonable nexus to the objective sought to be achieved.
9. In the instant case, what is the objective to be achieved by fast-tracking one class of people who are not trained over another class of teachers who holds the D.Ed/BTI/D.Ele.Ed., is not satisfactorily established by the State. If one class of untrained teachers are given preference to get a B.Ed., then the subsequent service Rules of 2019 would come to their aid to always march ahead of the teachers though they are trained in D.Ed/BTI/D.Ele.Ed. The test for valid classification is required to be based on a classification founded on an intelligible differentia which is absent in the instant issues.

Therefore, the barrier imposed by Clause 2.2 of notification dated 21.05.2020 is unreasonable and discriminatory. In the result, the petitioners who are provisionally admitted to B.Ed. (Departmental) Course shall be allowed to appear in examination and complete their course to obtain the degree of B.Ed.

10. With Such observations, the petitions are allowed.

**Sd/-
GOUTAM BHADURI
JUDGE**

Rao