

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9574 of 2020

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Arun Kumar Singh, S/o Ajay Singh, resident of Village and P.O.- Sowan, P.S.-
Krishabrahm, District – Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Euducation Department, Govt. of Bihar, Patna.
3. The Director (Primary Education), Education Department, Bihar, Patna.
4. The Chairman, Bihar School Examination Board, Patna.
5. The Secretary, Bihar School Examination Board, Patna.
6. The Director, National Council for Teachers Education, New Delhi.
7. Vishal Gaurav Son of Sanjay Prasad Resident of Village- Sathopur, Police
Station- Deep Nagar, District- Nalanda.
8. Rahul Kumar Jha Son of Lalit Kumar Jha Resident of Village- Baghant,
Police Station- Manigachhi, District- Darbhanga.
9. Amit Kumar Son of Dinesh Prasad Resident of Village- Indwas, Police
Station- Rahui, District- Nalanda.
10. Md. Shamsuzzama Son of Md. Abuzaffar Badiuzzama Resident of Village-
Mahpatia, Police Station- Bheja, District- Madhubani.
11. Chhotu Singh Son of Gajadhar Singh Resident of Village- Purhara, Police
Station- Haspura, District- Aurangabad.
12. Sunil Kumar Yadav Son of Mahendra Yadav Resident of Village- Pariharpur,
Police Station- Raj Nagar, District- Madhubani.
13. Deepak Kumar Dinkar Son of Ramakant Singh Resident of New Area Goh,
P.S. Goh, District- Aurangabad.
14. Badal Kumar Son of Ranjeet Prasad Gupta Resident of Damodarpur, P.O.
Damodarpur, District- Muzaffarpur.
15. Neha Bishwas Daughter of Satya Narayan Bishwas Resident of Near Purnea
College Chock, Jai Prakash Nagar, District- Patna.
16. Deepak Kumar Son of Lalbabu Thakur Resident of Mohabbatpur, District-
Muzaffarpur.
17. Kriti Lala Daughter of Sikandar Prasad Yadav Resident of Laxmaniya,
Kanp, District- Saharsa.
18. Indralok Kumar Son of Ramnivash Sharma Resident of Ahiai, Baikunthpur,
District- Vaishali.
19. Sudhir Kumar Mishra Son of Nand Kishore Mishra Resident of Ward No.05,
Gokhula, District- West Champaran.

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 374 of 2020

1. Vikash Kumar S/o Sri Ajit Kumar resident of ward no. 25, Shektoli, P.S. Samastipur, District- Samastipur.
2. Navneet Kumar S/o Sri Laxmi Prasad resident of Mohalla- Sadpura, Mahamaya Chowk, P.O. Ramna, P.S. Mohammadpur, District- Muzaffarpur.
3. Shyam Kumar Sri Surendra Lal resident of Village and P.O. and P.S.- Barhiya, Ward No. 13, Neel Kanth Mandir, District- Lakhisarai.
4. Pappu Kumar S/o Sri Meghnath Prasad resident of Village, P.O. and P.S.- Dhansoi, District- Buxar.
5. Anil Kumar Tiwari S/o Sri Srinivas Tiwari resident of Village- Bishunpura, P.O.- Bampali, P.S.- Udwanthnagar, District- Bhojpur (Ara).
6. Sheel Kumar S/o Sri Anil Kumar resident of Village- Rampur, P.O.- Jitwarpur Kumhira, P.S.- Sarai Ranjan, District- Samastipur.
7. Amiya Bhushan Kumar S/o Narbadeshwar Pandey resident of Village- Baradh, P.O. Malour, P.S. Charpokhari, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. Principal Secretary, Education Department, Government of Bihar, Patna.
3. Director, Elementary Education, Education Department, Government of Bihar, Patna.
4. National Council for Teacher Education through its Chairman, having its Office at Eastern Regional Committee, 15, Neelkantha Nagar, Nayapalli, Bhubneshwar, Odisha.
5. The Union of India
6. The Central Board of Secondary Education

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 9574 of 2020)

For the Petitioner	:	Mr. Rajendra Narayan, Sr. Advocate with Mr. Maya Shankar Mishra, Advocate Mr. Ashwani Kumar Tiwary, Advocate
For the State	:	Mr. P. K. Shahi, Advocate General with Ms. Binita Singh, SC-28
For the Intervenors	:	Mr. Mrigank Mauli, Sr. Advocate Mr. Prince Kumar Mishra, Advocate
For the Intervenors	:	Mr. Pushkar Narayan Shahi, Sr. Advocate with Mr. Mukesh Kumar Thakur, Advocate
For the B.S.E.B.	:	Mr. Gyan Shankar, Advocate
For the N.C.T.E.	:	Mr. Sunil Kumar Singh, Advocate



(In Civil Writ Jurisdiction Case No. 374 of 2020)

For the Petitioners : Mr. Ankit Katriyar, Advocate
For the State : Ms. Binita Singh, SC-28
For the N.C.T.E. : Mr. Sunil Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

Date : 05-07-2023

1. Heard learned counsels for the parties.

2. The petitioners are aggrieved by the minimum qualification clause contained in the Bihar Panchayat Primary Teacher (Employment and Service Condition) Rule as also Bihar Nagar Primary Teacher (Employment and Service Condition) Rule, 2012. Their grievance is with respect to specific prescription contained in these two rules at Clause 5 (i) (kha) insofar as it declares the Teacher Eligibility Test conducted by the Central Government as also by the State Government, both to be one of the essential minimum qualifications.

3. The said requisite essential qualification has been reiterated subsequently in Clause 5 (i) (kha) of the Bihar Panchayat Elementary Education Service (Appointment, Promotion, Transfer, Disciplinary Proceedings and Conditions) Rule, 2020 and Clause 5 (i) (kha) of the Bihar Municipal Elementary School Service (Appointment, Promotion, Transfer,



Disciplinary Proceeding and Service Conditions) Rules, 2020

The impugned provision in the above noted three rules are identical, and hereinafter for the sake of brevity referred to as “the impugned provision in the Rules”.

4. The impugned provision in the Rules, insofar as passing of Teacher’s Eligibility Test conducted by the Central Government, namely, Central Teacher Eligibility Test (CTET) has been held to be a valid minimum qualification, has been assailed.

5. For the sake of easy reference, Clause 5(i)(kha) in the impugned provision in the Rules is being quoted, which reads as follows:-

“ 5.(i)(ख) केन्द्र अथवा बिहार राज्य सरकार द्वारा आयोजित " शिक्षक पात्रता परीक्षा " (टी.ई.टी.) में उत्तीर्ण । ”

6. The petitioners seek issuance of directions to treat only the Teachers Eligibility Test (TET) conducted by the State of Bihar, exclusively to be the minimum eligibility criteria.

7. It is submitted by Mr. Rajendra Narayan, learned senior counsel for the petitioner in C.W.J.C. No. 9574 of 2020, that Section 23 of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred as “RTE”) specifies the qualification for appointment of teachers. As per Section 23 (1) of the RTE, the requirement is of possessing the minimum



qualifications laid down by the Academic Authority, authorized by the Central Government by a notification. The Academic Authority has been specified as the National Council for Teacher Education (“NCTE” for brevity), vide notification dated 31.03.2010.

8. The NCTE thereafter has issued notification dated 23.08.2010 wherein one of the essential minimum qualifications is passing of TET conducted by the appropriate Government. Relevant extract of the notification dated 23.08.2010 reads as follows:-

“(b) Pass in the Teacher Eligibility Test (TET) to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.”

9. This requirement of passing TET to be conducted by the appropriate Government did not undergo any change in spite of notifications subsequently issued by the NCTE on 29.07.2011 and 28.06.2018

10. The term “appropriate Government” has been defined in Section 2 (a) of the RTE, which reads as follows:-

“2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means—

(i) in relation to a school established, owned or controlled by the Central Government, or the administrator of the



Union territory, having no Legislature, the Central Government;

(ii) in relation to a school, other than the school referred to in sub-clause (i), established within the territory of—

(A) a State, the State Government;

(B) a Union territory having Legislature, the Government of that Union territory;”

11. Guidelines as contemplated under the notification dated 23.08.2010 were subsequently issued by the NCTE under its communication dated 11.02.2011 to all the State Governments and Union Territories. These guidelines also contemplate passing of TET conducted by the appropriate Government to be one of the essential minimum educational qualifications for appointment as a teacher.

12. It is submitted that the State of Bihar is the appropriate Government for the schools established, owned and controlled by the State Government. Therefore, TET conducted by the State of Bihar alone can be considered to be a valid TET, passing of which would confer eligibility for appointment as teacher in the State of Bihar. The CTET is conducted by the Central Government, which is not the appropriate Government for schools established, owned and controlled by the State of Bihar. The same, thus cannot be considered as a valid examination so as to confer eligibility for appointment as



teacher in schools established, owned, controlled and managed by the State of Bihar. Therefore, the impugned provision in the Rules recognizing CTET to be one of the essential minimum qualifications for appointment of teacher in the Panchayat Schools and Municipal Schools within the State of Bihar is unsustainable. The Authorities must confine the eligibility to the TET conducted by the appropriate Government (State of Bihar).

13. Learned senior counsel for the petitioner in support of his submissions has placed reliance on judgment of a Division Bench of the Punjab & Haryana High Court in the case of *Antim Kumari versus State of Haryana and others* in *CWP No. 346 of 2013* and analogous cases (Annexure-11 to the writ petition). He submits that though decision of a Division Bench of another High Court, may not be binding but reliance is placed since the notification and guidelines issued by the NCTE have pan India application. If one High Court has taken a particular view with respect to any provision in the notification or guidelines, the same may have persuasive value on this Division Bench also. He has also placed reliance on decision of an Hon'ble Single Judge Bench of Rajasthan High Court in *S.B. Civil Writ Petition No. 6060 of 2012* and analogous cases (Annexure-12 to the writ petition).

14. Mr. Ankit Katriyar has appeared for the petitioners



in C.W.J.C. No. 374 of 2020. He has adopted the submissions advanced by the learned senior counsel on behalf of the petitioner of C.W.J.C. No. 9574 of 2020.

15. Mr. P.K. Shahi, learned Advocate General appearing with Ms. Binita Singh learned SC-28, submits that as per Section 23 (1) of the RTE, the requisite minimum qualification conferring eligibility for appointment as teacher is required to be laid down by the Academic Authority. The Central Government has notified NCTE as their Academic Authority. The NCTE has issued notification dated 23.08.2010 as well as guidelines dated 11.02.2011 prescribing the minimum qualifications, one of which is the TET to be conducted by the appropriate Government. The State Government is the appropriate Government for schools established, owned and controlled by the State of Bihar. He agrees that the minimum educational qualifications prescribed by the Academic Authority, cannot be compromised by any appropriate Government. In the instant case without compromising, or in any way adversely affecting the minimum educational qualification prescribed by the Academic Authority, the impugned provision in the Rules has prescribed CTET to be one of the minimum essential qualifications. Discretion of the appropriate Government, for prescribing qualifications for



appointment as teachers is limited only to the extent of the minimum standards specified in the notification dated 23.08.2010 and guidelines dated 11.02.2011 issued by the NCTE. Otherwise, it is well within the jurisdiction of the State Government to prescribe additional essential qualifications for appointment, as has been done in the instant case by recognizing both CTET (conducted by the Central Government) pass and TET (conducted by the State Government) pass as the minimum essential qualification.

16. He submits that decisions of the Punjab & Haryana High Court in the case of *Antim Kumari* (supra) as well as decision of the Rajasthan High Court relied upon by the learned senior counsel for the petitioner has no application in the instant case. The facts in the instant case are different. In both the cases relied upon by learned senior counsel for the petitioner, the State Government did not prescribe CTET to be one of the minimum essential qualifications for appointment as teachers, as has been done by the State of Bihar in the impugned provision in the Rules. He further submits that decision of Division Bench of Punjab & Haryana High Court does not constitute binding precedent for this Division Bench. The decision of the Rajasthan High Court being decision of an Hon'ble Single Judge also does not constitute any binding precedent for this



Division Bench.

17. Prescription of minimum essential qualification in notification dated 23.08.2010 does not in any way preclude the appropriate Government from recognizing CTET. Therefore, there is no infirmity in the prescription contained in the impugned provision in the Rules. The claim of the petitioners that only those who have passed in the TET conducted by the State of Bihar, be considered as possessing minimum essential qualification is without any substance. The said prayer is not supported by any statutory provision, or provision in the notification dated 23.08.2010 or the guidelines dated 11.02.2011. The writ petition, therefore, is devoid of merit and fit to be dismissed, he contends.

18. Learned Senior counsel, Mr. Mauli appearing for the intervenors submits that recognition of CTET pass does not suffer from any illegality. The prescription is by the State Government, which as per the statutory guidelines is the competent authority. The NCTE has fixed the minimum qualification, which has not been lowered by the State Government, rather there is addition of another qualification which also is recognised by the NCTE. Therefore, there is no infirmity in prescription of "another" or "higher qualification", so long as the minimum qualification prescribed by the NCTE is



not lowered. In support of this contention, he has relied upon decision of the Hon'ble Apex Court in the case of ***Visveswaraiah Technological University and Another versus Krishnendu Halder and Others*** reported in ***(2011) 4 SCC 606***, as also decision of the Hon'ble Apex Court in the case of ***Maa Vaishno Devi Mahila Mahavidyalaya versus State of Uttar Pradesh and Others*** reported in ***(2013) 2 SCC 617***.

19. Referring to these decisions, Mr. Mauli submits that since education is a subject matter lying in entry 25 of the concurrent list in the Seventh Schedule of the Constitution of India, the State has power to lay down norms and standards, insofar as they are not in conflict with norms laid down by the Academic Authority under Section 23(1) of the RTE. In the instant case there is no conflict with the prescription in the rules framed by the State Government with that prescribed by the NCTE under statutory notification and guidelines issued under the RTE.

20. He has submitted that the petitioner's argument that TET conducted by State alone can be considered relevant for appointment, by placing reliance on definition of the expression appropriate Government in Section 2(a)(ii) of the RTE, is ignoring/overlooking the opening line of the Definition clause under Section 2 of the RTE, which says "*unless the context*



otherwise requires”. This expression, in the Statute clarifies that definition in Section 2(a)(i) and 2(a)(ii)(A) are not exhaustive and may take a somewhat different meaning under the context of the different Sections of the RTE. The petitioner’s plea, therefore, that TET conducted by State alone should be considered as relevant for appointment in terms of Section 2(a)(ii) is misconceived and devoid of any substance.

21. In this connection, he has relied on the decision of the Apex Court in the case of *Whirlpool Corporation versus Registrar of Trade Marks* reported in (1998) 8 SCC 1 and *S.K. Gupta & Anr. versus K.P. Jain & Anr.* reported in (1979) 3 SCC 54. Such intent of Section 2 is also manifest from the Clause 10(b) of the Statutory guidelines dated 11.02.2011, which allows the State Government schools to consider/accept TET certificate of other States as well.

22. He further submits that merely because the guideline does not contain an explicit prescription, allowing the State Government to accept TET conducted by the Central Government as a qualifying criteria, the same does not limit the discretion of the State Government. The only limit is to abide by the minimum qualification prescribed by the NCTE. Silence of any explicit prescription regarding CTET cannot be construed as a restriction on the powers of the State. In support of this



submission, he has referred to decisions of the Apex Court in the Case of *Lok Prahari & Anr. versus. Union of India & Ors.* reported in *(2018) 16 SCC 696* and *Harshad S. Mehta & Ors. versus State of Maharashtra* reported in *(2001) 8 SCC 257*. It is, thus submitted that the prayer in the writ petition, seeking declaration of invalidity of the impugned provision in the Rules, recognising CTET also to be a relevant qualification for appointment to the State established, owned and controlled schools, is devoid of any substance. The prayer to treat only the TET conducted by the State of Bihar, exclusively to be the minimum eligibility criteria, therefore, is misconceived and the writ petition is fit to be dismissed.

23. Mr. Pushkar Narayan Shahi, learned senior counsel appearing for another set of intervenors, has adopted the arguments advanced by the learned Advocate General, as well as Mr. Mrigank Mauli. He has thus opposed the prayer in the writ petition.

24. Mr. Gyan Shankar, learned counsel, has made submissions on behalf of the Bihar School Examination Board.

25. The NCTE is represented by learned counsel Mr. Sunil Kumar Singh. The NCTE has also filed a counter-affidavit. Their counter-affidavit and stand taken therein is of great significance in view of the fact that the minimum requisite



qualifications in notification dated 23.08.2010 have been specified by them acting as the “Academic Authority”. They have merely reiterated the contents of the provisions of the RTE and notification dated 23.08.2010. They have not raised any objection in the counter-affidavit to the prescription contained in the impugned provision in the Rules wherein the State of Bihar has considered both CTET pass and TET pass persons to be possessing one of the essential minimum requisite qualifications for the purposes of appointment.

26. We, thus find that the issue at the crux of the dispute is whether the statutory provisions contained in Section 2(a), Section 23 (1) of the RTE, read with the Statutory notification dated 23.08.2010 and guideline dated 11.02.2011, issued by the academic authority, in any way inhibits the discretion of the State Government to recognise CTET as a valid essential minimum qualification along with TET conducted by the State Government for appointment under the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2012, Bihar Panchayat Elementary School Service (Appointment, Promotion, Transfer, Disciplinary Proceeding and Service Conditions) Rules, 2020, and Bihar Municipal Elementary School Service (Appointment, Promotion, Transfer, Disciplinary Proceeding and Service



Conditions) Rules, 2020.

27. The writ petitioner's contention that TET conducted by the State (appropriate Government), exclusively can be the relevant qualification is founded on a restrictive interpretation of the expression appropriate Government in Section 2(a)(ii) of the RTE, based on plain reading of the provision. Such interpretation would essentially require ignoring/overlooking the opening line of Section 2 of the Act, which says "*unless the context otherwise requires*". While interpreting Section 2(a)(ii), the Court cannot ignore the opening line of Section 2 of the Act.

28. Thus, we are of the view that the statutory provisions, the notification dated 23.08.2010 and the guidelines dated 11.02.2011 are required to be read harmoniously to give true effect to the legislative intent of the Act. The restrictive interpretation of the term appropriate Government in the notification dated 23.08.2010, therefore, would be contrary to the legislative intent, which is obvious from the opening line of the Definition clause in Section 2 of RTE.

29. The two decisions relied upon in this connection by learned counsel, Mr. Mauli, in the case of ***Whirlpool Corporation*** (*supra*) and ***S.K. Gupta & Anr.*** (*supra*) fortify our conclusion with respect to interpretation of the definition of



appropriate Government in Section 2(a) (ii) of the RTE . The expression appropriate Government will have to take its colour in context of Section 23 of the RTE.

30. The Court, therefore, is required to see the context of Section 23, notification dated 23.08.2010, as well as the guideline dated 11.02.2011.

31. The intent and context of Section 23 is clear from a plain reading of the provision. It lays down qualifications for appointment as well as terms and conditions of service of teachers. Section 23 clearly manifests the intention of the Statute giving primacy to the Central Government since the Statute finds its basis in the Concurrent list of the 7th Schedule of the Constitution of India. Therefore, Section 23(1) has empowered the Central Government to authorise an academic authority for prescribing the minimum qualifications for appointment as a teacher by issuing a notification. Accordingly, the NCTE has been authorised as the academic authority by notification dated 31.03.2010. In exercise of its power derived from Section 23(1) of the RTE, the academic authority has laid down the minimum qualification for appointment as a teacher by issuing a notification dated 23.08.2010. This notification specifies the minimum qualification for appointment of teachers, to be pass in TET conducted by the appropriate



Government. Viewed thus, the prescription, which is limited to the extent of minimum qualification as contained in notification dated 23.08.2010, read with guidelines dated 11.02.2011, is statutory in nature and binding on the “appropriate Government”.

32. In fact, we find that the RTE under Section 38 recognises the power of the appropriate Government (State Government in the instant case) to make rules for carrying out the provisions of this act by notification with respect to several matters enumerated therein from clause (a) to (q) of sub-section (2) of Section 38 of the RTE. Section 38(2)(l) empowers the State Government to make rules by notification for salary and allowances payable.

33. The scheme of the Act, therefore, insofar as qualification for appointment of teacher is concerned, does not manifest a legislative intention so as to authorise the academic authority to lay down any parameter other than the minimum qualification for appointment as a teacher, which it has laid down by its notification dated 23.08.2010. This binding prescription regarding minimum qualification, therefore, cannot be lowered by the appropriate Government/State Government.

34. We find that there is no infirmity in prescription of another or higher qualification so long as the minimum



qualification prescribed by the NCTE is not lowered. Considering the two judgements in the case of *Visveswaraiah Technological University and Another* (supra) and in the case of *Maa Vaishno Devi Mahila Mahavidyalaya* (supra) we find that inclusion of TET conducted by the Central Government as a minimum qualification for appointment of teacher in addition to TET conducted by the State Government does not in any way adversely affect the prescription of minimum standard as per notification dated 23.08.2010. Determination of such standards which do not adversely affect the standard laid down by the academic authority cannot be said to be arbitrary or in any way offending notification dated 23.08.2010. Viewed thus, keeping in background the legal position arising out of the two judgments of the Hon'ble Apex Court noted above, we find that the prescription of CTET requires no interference by invoking judicial review under Article 226 of the Constitution of India.

35. This is also for the reason that the notification dated 23.08.2010 issued in exercise of powers by the academic authority under Section 23 of the RTE occupies the field of minimum qualification only. The additional qualification or higher qualification, therefore, will have no conflict as it does not adversely affect the minimum qualification. The prescription CTET in addition to TET can co-exist without any conflict



between the two.

36. The notification however does not specify the maximum qualification, obviously because the Statute vests discretion in the academic authority only to specify the minimum qualification. The powers and discretion of the “appropriate Government” to recognise qualification in addition to the minimum qualification, or higher qualification is thus not inhibited by Section 23(1) of the RTE or the notification dated 23.08.2010 as modified by the subsequent notifications. In fact the NCTE itself has issued the guidelines dated 11.02.2011, Clause 10 of which provides discretion to the appropriate Government to recognise TET conducted by another authority also. The mere fact that it does not specify CTET also, and that there is silence in this regard, is of no relevance, having regard to the above noted scheme of the statute.

37. Silence in this regard, in our opinion, cannot lead this Court to conclude to be prohibiting the discretion of the appropriate Government to provide qualifications in addition to, or higher than the minimum qualification prescribed by the notification dated 23.08.2010, issued by the Academic Authority under Section 23 (1) of the RTE. Such conclusion of the Court is founded on the decision of the Apex Court in the case of ***Lok Prahari & Anr.*** (*supra*).



38. On going through the decisions in the case of *Antim Kumari* (supra) and decision of the Rajasthan High Court in *SB Civil Writ Petition No. 6060 of 2012* relied upon by learned senior counsel for the petitioner, this Court finds that the facts and issues of the said cases are distinguishable from the instant case as there was no provision in the appointment rules within the State of Haryana or Rajasthan recognizing the CTET as one of the essential minimum qualifications for appointment as teacher. In the State of Bihar, however, the impugned provision in the Rules prescribe CTET as well as TET conducted by the State Government to be one of the essential minimum qualifications. It is axiomatic that a judgment can have any precedential or persuasive value, only if the same is considering identical or similar facts and circumstances, as the case in which it is being relied upon. We, however, find that the facts of the instant case are totally different and, therefore, do not consider the judgment of the Punjab & Haryana High Court or Rajasthan High Court to be applicable, let alone be of any persuasive value in the facts and circumstances of the instant case.

39. In view of consideration above, we are in agreement with the submissions advanced by Mr. P.K. Shahi, learned Advocate General, Mr. Mrigank Mauli and Mr. Pushkar



Narayan Shahi, learned senior counsels for the intervenors.

40. The conclusions of this Court are also after due consideration of the stand taken by NCTE. They have entered appearance in the proceedings, and filed a counter-affidavit. NCTE, however, has raised no objection whatsoever to the impugned provision in the Rules, insofar as it recognises CTET conducted by the Central Government to be a requisite qualification, in addition to the TET conducted by the State Government.

41. We find no infirmity in the impugned provision in the Rules, insofar as it recognizes the CTET to be a minimum qualification in addition to TET conducted by the State Government. In view of such finding, there is no occasion for this Court to issue any direction for holding the TET conducted by the State Government only to be an essential minimum qualification for appointment of teachers under the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2012, Bihar Panchayat Elementary School Service (Appointment, Promotion, Transfer, Disciplinary Proceeding and Service Conditions) Rules, 2020, and Bihar Municipal Elementary School Service (Appointment, Promotion, Transfer, Disciplinary Proceeding and Service Conditions) Rules, 2020.



42. Situated thus, in our opinion, the writ petitions are devoid of substance and merit and are dismissed accordingly.

(Madhuresh Prasad, J)

I agree.
Chakradhari Sharan Singh, J:

(Chakradhari Sharan Singh, J)

Shashank/-

AFR/NAFR	AFR
CAV DATE	17.03.2023
Uploading Date	01.08.2023
Transmission Date	NA

