



2024:DHC:8497



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

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Date of Decision: 23rd October, 2024+ **W.P.(C) 9552/2017 and CM APPL. 38879/2017****SMT. DIVYA BHASKAR AND ANR.**

.....Petitioners

Through: Mr. Mohit Gupta, Ms. Aayushi Jain,
Mr. Shivam Sharma, Ms. Shifa Nagar, Mr. Ankush
Shekhar, Mr. Rakesh Kumar Gaur and Mr. Raghav
Gaur, Advocates.

versus

GOVT. OF NCT OF DELHI AND ANR.

.....Respondents

Through: Mrs. Avnish Ahlawat, Standing
Counsel, GNCTD (Services) with Mr. Nitesh
Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza
Alam, Mr. Mohnish Sehrawat and Mr. Amitoj
Chaddha, Advocates for R-1.
Mr. Ankit Jain and Mr. Aditya Chauhan,
Advocates for R-2.

CORAM:**HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J. (ORAL)**

1. This writ petition has been preferred on behalf of the Petitioners under Article 226 of the Constitution of India laying a challenge to letter/order dated 14.06.2017 issued by the Respondent No.1/Directorate of Education ('DoE'), whereby proposal of Respondent No.2/Lalita Prasad Arya Girls Senior Secondary School ('School') for release of grant-in-aid towards salaries of the Petitioners for the period 06.02.2017 to 31.03.2017 was



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rejected and recruitment/appointments of the Petitioners to the post of Assistant Teacher were declared null and void.

2. Factual matrix to the extent necessary and as averred in the writ petition is that the School sent a proposal on 18.08.2015 to DoE to fill up various vacant posts through direct recruitment which included two vacant posts of Assistant Teacher. DoE conveyed its sanction vide letter dated 02.04.2016 to fill up 01 post of TGT (Home Science) and 02 posts of Assistant Teacher. On 16.07.2016, DoE accorded approval to the draft advertisement as per which the essential educational qualifications for the post of Assistant Teacher were Higher Secondary or Senior Secondary/ Intermediate with Science and Maths upto Matric/10th standard with JBT/ETT or Graduate with B.Ed. with a further stipulation that the candidate should have passed CTET conducted by CBSE.

3. School advertised the 02 vacancies in 'The Statesman' on 26.07.2016 and in Hindi Daily, Rashtriya Sahara on 24.07.2016 and in the Employment News from 17.09.2016 to 23.09.2016. Corrigendum was thereafter published in Rashtriya Sahara on 19.10.2016; in The Statesman on 20.10.2016 and in Employment News from 29.10.2016 to 04.11.2016, giving reference to the advertisement and clarifying that candidates having only Graduation with B.Ed. will not be considered for the post of Assistant Teacher. DoE constituted the Selection Committee with DE nominee and subject expert and intimated the constitution to the School vide letter dated 23.01.2017. In response to the advertisement for the post of Assistant Teacher (SC category), 137 applications were received out of which 65 candidates were found eligible and Petitioner No. 1 was amongst them. Meeting of the Selection Committee was convened on 25.01.2017 for filling



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up the said post and the Committee *inter alia* according to the Petitioners, ratified the clearance of DoE to fill up the post in accordance with the advertisement and the corrigendum. The Selection Committee, unanimously recommended the name of Petitioner No. 1 for appointment and the Minutes were signed by all members.

4. The Selection Committee also considered the candidature of 04 candidates who were found eligible amongst 188 applicants, for filling up vacant post of Assistant Teacher (OBC category). Petitioner No. 2 was found eligible and recommended for appointment after the Selection Committee ratified the selection process in consonance with the advertisement read with the corrigendum. Consequently, appointment letters dated 02.02.2017 were issued to the Petitioners. On 27.03.2017, School received a letter from DoE questioning the validity of the corrigendum debarring B.Ed. candidates from applying, in response to which the School responded on 28.04.2017 clarifying that the Petitioners were appointed as per minimum qualifications prescribed under the Right to Education Act, 2009 and requested to release the grant-in-aid for payment of salaries. DoE, however, issued the impugned order/letter dated 14.06.2017 declaring the recruitment/appointments of the Petitioners as null and void. School sent a communication dated 24.06.2017 to DoE for reconsidering its decision for several reasons enumerated in the letter. DoE issued show cause notice to the School on 24.06.2017 under Section 20 of the Delhi School Education Act and Rules, 1973 ('DSEAR') to explain why the Management of the School be not taken over for making irregular appointments. Compelled by the circumstances, Petitioners approached this Court and vide order dated 30.10.2017, Court directed that *status quo* be maintained with respect of the



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services of the Petitioners.

5. Learned counsel appearing on behalf of the Petitioners submits that there is no legal infirmity either in the corrigendum published by the School in the newspapers on 19.10.2016 and 20.10.2016 and from 29.10.2016 to 04.11.2016, respectively, clarifying that candidates having only graduation with B.Ed. will not be considered for the post of Assistant Teacher or in the recruitment/appointments of the Petitioners. It is argued that the action of the School is in consonance with the Recruitment Rules ('RRs') for the post of Assistant Teacher notified vide Notification No. F.5/ADC/RR/AT/88/241-644 dated 23.01.1989 as circulated vide DE.15/Act/59/93/RR/14680-14736 on 27.10.1993, as per which post of Assistant Teacher is a non-selection post and for which essential educational qualifications do not include a B.Ed. degree. Petitioners fulfilled the required educational qualifications prescribed in the RR's and the advertisement and were rightly found eligible and recommended for appointment by all members of the Selection Committee, unanimously. The argument is that if the RR's do not prescribe B.Ed. as a qualification, no illegality can be found in the corrigendum deleting the requirement of B.Ed., which was inadvertently mentioned in the advertisement. Learned counsel places reliance on the judgment of the Division Bench of this Court in **Ataul Haque v. The Govt. of NCT of Delhi and Others, 2001 SCC OnLine Del 150**, where the Court held that ETE/JBT curriculum is framed in such a manner that one single teacher is able to teach all subjects to a particular class of students whereas in B.A. curriculum emphasis is on specialisation in two subjects. Examining the course content and other differences in the two courses, it was held that the two qualifications operate in different fields and at different levels and



therefore, it will be wrong to say that B.Ed. is a higher qualification than ETE/JBT in the same sense as B.A. is higher than Intermediate, because for passing B.A. one has necessarily to pass Intermediate. Reliance is also placed on the judgment of the Supreme Court in *Yogesh Kumar and Others v. Govt. of NCT, Delhi and Others*, (2003) 3 SCC 548 and of this Court in *Sanjeev Kumar and Ors. v. Govt. of NCT of Delhi and Ors.*, 2005 SCC OnLine Del 1420, wherein it was held that a specialised training given to teachers for teaching small children at primary level cannot be compared with training given for awarding B.Ed. degree and hence B.Ed. cannot be held to be higher qualification than Trained Teacher Certificate ('TTC'). Therefore, learned counsel urges that the impugned order be quashed and set aside and the appointments of the Petitioners be declared as valid, being made in accordance with the RRs, with all consequential benefits. Reliance is also placed on a recent decision of the Supreme Court in *Navin Kumar and Others v. Union of India and Others*, 2024 SCC OnLine SC 2360, wherein the Supreme Court reaffirmed the position that B.Ed. was not a qualification for a teacher in a primary school and referred to an earlier decision in *Devesh Sharma v. Union of India and Others*, 2023 SCC OnLine SC 985 in this regard.

6. Mr. Ankit Jain, learned counsel appearing for the School supports the case of the Petitioners. Reiterating the arguments made by learned counsel for the Petitioners, it is urged that the RRs specifically provide the essential educational qualifications for the post of Assistant Teacher wherein B.Ed. is not the required educational qualification. After the advertisement was issued, Deputy Director of Education (Zone-1) informed the School that the educational qualifications prescribed in the advertisement were not in



consonance with the RRs. He specifically mentioned that B.Ed. cannot be considered as a higher qualification than Teachers Training Qualification and also handed over judgments in this regard. After perusing the RRs and the judgments, School issued a corrigendum in all the three newspapers in which the advertisement was published. Duly constituted Selection Committee comprising of DE nominee and subject expert appointed by DoE unanimously decided to proceed as per the corrigendum and recommended the names of the Petitioners. Once the corrigendum was as per the RRs, appointments of the Petitioners cannot be declared as null and void by DoE.

7. It is also argued that Rule 98 of DSEAR provides that any appointment made by the Managing Committee of an aided school shall be provisional requiring the approval of the DoE. However, it further provides that such approval will be required only in case, the DE nominee is not present in the meeting or there is a difference of opinion amongst the members of the Selection Committee, which is not the case here and therefore, no approval of DoE was required. Perusal of the minutes of the Selection Committee would show that it was specifically recorded therein that a corrigendum had been issued clarifying that candidates with B.Ed. will not be considered and noting this fact and being satisfied with the legal requirements, Committee recommended the names of the Petitioners. The minutes were signed by all five members of which three were independent members. Learned counsel places reliance on the RRs and judgement of the Supreme Court in *Yogesh Kumar (supra)* and submits that the selection and appointments of the Petitioners was legally valid.



8. Mrs. Avnish Ahlawat, learned Standing Counsel appearing for DoE in her usual fairness does not dispute that it is no longer *res integra* that B.Ed. is not the requisite essential educational qualification for the post of Assistant Teacher but urges that the School ought to have taken approval of DoE before issuing the corrigendum.

9. Heard learned counsels for the parties and examined their contentions.

10. It is not in dispute that draft advertisement for filling up 02 vacant posts of Assistant Teacher was approved by DoE, after which it was the advertisement was published in 03 different newspapers and as per the advertisement the essential educational qualifications were: *'Higher Secondary or Senior Secondary/Intermediate with Science and Maths upto Matric/10th standard with JBT/ETT or Graduate with B.Ed. Candidate should have passed CTET conducted by CBSE'*. Subsequent thereto, a corrigendum was issued by the School which reads as follows:-

"News Article

*Lalita Prasad Arya Girls Sr. Sec. School
Anaj Mandi Shahdara, Delhi-32
(Govt. Aided School)*

Corrigendum

If ref. to our advertisement in the Rashtriya Sahara 24 July 2016 all are hereby informed that Candidate having only Graduate B.Ed will not be considered for the post of Assistant Teacher at S.N.2 and other contents will remain same."

11. It is equally undisputed that DoE conveyed the constitution of the Selection Committee to the School vide letter dated 23.01.2017, post the publication of the corrigendum. The Selection Committee admittedly included a DE nominee as well as a subject expert, appointed by DoE. Selection Committee in its meeting held on 25.01.2017 recommended the name of Petitioner No. 1 for appointment as Assistant Teacher in the order



of merit in the SC category and the name of Petitioner No. 2 in the OBC category. DoE, however, questioned the legality of the corrigendum and the recruitment/appointments of the Petitioners on the ground that corrigendum was issued without approval of the DoE and deletion of the qualification of B.Ed. degree and consequent non-consideration of candidates possessing the said degree was in violation of RRs and instructions issued to the Managing Committee of the School for following two different marking schemes for candidates with or without a B.Ed. degree.

12. The primordial questions that arise for consideration before this Court are whether B.Ed. degree is an essential educational qualification for post of Assistant Teacher and whether the School was required to take prior approval from DoE before publishing the corrigendum. Legality of appointments of the Petitioners will depend upon answers to the aforesaid questions.

13. RRs for appointment to the post of Assistant Teacher were notified vide Notification No. F.5/ADC/RR/AT/88/241-644 dated 23.01.1989 as circulated vide DE.15/Act/59/93/RR/14680-14736 on 27.10.1993 and have been placed on record during the course of hearing and pertinently are not in question. Relevant part of the RRs is as under:-

“R.R. for the Post of Assistant Teacher

*Vide Notification No. F.5/ADC/RR/AT/88/241-644, dt.23.1.1989, as
Circulated vide No. DE.15/Act/59/93/RR/14680-14736, 27.10.1993*

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|--|---|
| 1. Name of the Post | : Assistant Teacher. |
| 2. Classification | : Group ‘C’, Non-ministerial |
| 3. Scale of pay | : Rs.1200-2400 (Pre-revised)
Rs.4,500-7,000 (Revised as
per V C.P.C.) |
| 4. Whether selection post or
non-selection post | : Non-selection post. |
| 5. Age limit for direct recruitment | : Below 30 years. (Relaxation |



6. *Educational Qualifications*

*in case of Govt. servants of
Delhi Admn. below 40 years
in case of Female candidates)*

: Essentials :

1. *Hr. Secondary or Sr. Sec./Intermediate*
2. *Should have studied Sc. & Maths upto Matric/10th std.
(Qualification shown at Sr. No. 2 is relaxable for the candidate passed Hr. Sec. Examination.)*
3. *JBT/BTC. (Relaxable on the recommendation of the selection committee, in case the candidate possesses higher teachers training qualification)*

X. Desirable

1. *B.A. with English*

14. From a plain reading of the RRs, it is evident that post of Assistant Teacher is a non-selection post and the essential educational qualifications do not include B.Ed. degree. It needs no reiteration that an advertisement has to be in consonance with the RRs of the post in question and therefore the initial advertisement prescribing B.Ed. degree as an essential educational qualification was clearly against the RRs. The School was thus right and justified in rectifying the error and issuing a corrigendum deleting the requirement of possessing a B.Ed. degree and consequently not considering candidates who were Graduates with only B.Ed. degree.

15. Be it noted that while in the impugned order there is no specific mention of what instructions issued by DoE were violated by the School by issuing the corrigendum, it is stated in the affidavit filed by DoE that as per provisions of the RRs candidates having Diploma of JBT/DIET as well as those having degree of B.A./B.Sc. with B.Ed. are eligible for appointment as Assistant Teacher and that two different marking schemes i.e. one for



candidates with diploma and other for candidates with degree in B.A./B.Sc. and B.Ed. were circulated by DoE for recruitment of Assistant Teacher in aided schools on 26.02.2014 and thus candidates with graduation degree with B.Ed. could not be ousted. *Albeit* subtly, it is also pleaded that the expression ‘Higher Teachers Training Qualification’ appearing in the RRs would include B.Ed.

16. Insofar as the marking schemes circulated by DoE are concerned, the same cannot be relied on as they run contrary to the RRs in question, wherein essential educational qualifications do not include B.Ed. There is no gainsaying that no Executive Instructions or Circular can override the statutory Recruitment Rules. [*Ref.: K. Kuppusamy and Another v. State of T.N. and Others, (1998) 8 SCC 469 and Bank of Baroda and Another v. G. Palani and Others, (2022) 5 SCC 612*].

17. As far as the argument that B.Ed degree is a higher qualification and thus included in the educational qualifications prescribed in the RRs is concerned, in *Yogesh Kumar (supra)*, the Supreme Court held that looking to the different nature of TTC qualification, High Court rightly held that it is not comparable with the B.Ed. degree qualification and the latter cannot be treated as higher qualification to the former. Relevant paragraph from the judgment is as follows:-

“5. The Division Bench of the Delhi High Court in the impugned judgment has dealt with the above two arguments in great detail. In our considered opinion, it has rightly come to the conclusion that BEd qualification, although a well-recognised qualification in the field of teaching and education being not prescribed in the advertisement, only some of the BEd candidates who took a chance to apply for the post cannot be given entry in the field of selection. We also find that the High Court rightly came to the conclusion that teacher training imparted to teachers for BEd course equips them for teaching higher classes. A specialized training given to teachers for teaching small children at primary level cannot be compared with training given for awarding BEd degree. Merely because primary



teachers can also earn promotion to the post of teachers to teach higher classes and for which BEd is the prescribed qualification, it cannot be held that BEd is a higher qualification than TTC. Looking to the different nature of TTC qualification, the High Court rightly held that it is not comparable with BEd degree qualification and the latter cannot be treated as higher qualification to the former.”

18. A Co-ordinate Bench of this Court, relying on **Yogesh Kumar (supra)** and **Ataul Haque (supra)**, in the case of **Sanjeev Kumar (supra)** held as follows:

“17. In Haq case, 2001 (3) AD (Del) 159 the Division Bench, after noting the curriculum and other aspects, said that:

It will thus be seen that whereas the ETE/JBT curriculum is framed in such a way that one single teacher is able to teach all the subjects to a particular class or students, in B.Ed. curriculum the emphasis is on the specialization in two subjects. The ETE/JBT courses are designed specially keeping the children of class I to V in mind which is not the case with B.Ed. curriculum. A primary teacher has to undergo teacher training in primary classes that is class I to V whereas a B.Ed. degree holder is required to have teaching experience of secondary classes i.e. from VI to X. In the curriculum framework for quality teacher education framed by National Council for Teachers Education, an autonomous body, it has been clearly mentioned in Clause 2.7 that the curriculum for primary teacher has been formulated specially to enable the teachers to teach primary classes i.e. from I to V whereas in Clause 2.9 which deals with teacher's education for secondary stage it has been observed that for teaching at the secondary level educational qualification which is most sought after is B.Ed. which in fact is meant for this stage alone. The subject-content as well as teaching methodology is different for ETE diploma holder and B.Ed. degree holder. The teaching practice for primary teachers and secondary teachers is also of different duration and different levels. The two qualifications operate in different fields and at different levels. It will, therefore, be wrong to say that B.Ed. is a higher qualifications then ETE/JBT in the same sense as B.A. is higher than intermediate. B.A. degree is considered to be higher than intermediate because for passing B.A. one has necessarily to pass intermediate but in order to obtain B.Ed. it is not necessary to pass ETE/JBT first. These two qualifications are specifically meant for different levels of students and there is no question of one being higher than the other.

18. The Court had also noticed that the (NCTE) and State Council of Educational Research and Training (SCERT) both had taken a stand that



B.Ed. candidates are not suitable for teaching primary classes for whom ETE/JBT courses are specifically designed.

19. *In the Yogesh case (supra), the Supreme Court endorsed the view of the Division Bench, in the following terms:*

“The Division Bench of the Delhi High Court in the impugned judgment has dealt with the above two arguments in great detail. In our considered opinion it has rightly come to the conclusion that B.Ed. qualification, although a well recognised qualification in the field of teaching and education-being not prescribed in the advertisement, only some of the B.Ed. candidates who took a chance to apply for the post cannot be given entry in the field of selection. We also find that the High Court rightly came to the conclusion that teacher training imparted to teachers for B.Ed. course equips them for teaching higher classes. A specialized training given to teachers for teaching small children at primary level cannot be compared with training given for awarding B.Ed. degree. Merely because primary teachers can also earn promotion to the post of teachers to teach higher classes and for which B.Ed. is the prescribed qualification, it cannot be held that B.Ed. is a higher qualification than TTC. Looking to the different nature of TTC qualifications the High Court rightly held that it is not comparable with B.Ed. degree qualification and matter cannot be treated as higher qualification to the former.”

20. *The discussion in the preceding paragraphs would show that the issue is no longer open; it stands concluded by the ruling of the Division Bench, and the Supreme Court. The essential qualification, for the purpose of recruitment to the post of a primary/Assistant Teacher (Primary) is inter alia two years teacher's training certificate. Hence, other qualifications, such as B.Ed. or one year's diploma/certificate are not recognized qualifications. In my considered view, the position would not alter, even if the advertisement includes B.Ed./one year's teachers' training certificate, in view of the findings of the Division Bench, and more importantly, the 2001 Regulations, which are discussed below:*

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24. *The effect of the 1993 Act, and regulations in the context of a similar contention for enforcement of recruitment conditions in rules the contained contrary stipulations, were considered by the Supreme Court, in a recent judgment reported as Rajesh Kumar Gupta v. State of U.P., (2005) 5 SCC 172 : AIR 2005 SC 2540 : (2005 Lab IC 2087): [2005 (5) SLR 1 (SC)]. The Court held as follows:*

“Whether the selection of candidates for special BTC training is contrary to the provisions of the U.P. Basic Education Act, 1972 and U.P. Basic Education (Teachers) Services Rules, 1981.



19. Relying on the judgment of *Union of India v. Shah Goverdhan L. Kabra Teachers College*, (2002) 8 SCC 228 : (AIR 2002 SC 3675), the High Court held that the National Council for Teacher Education constituted under Section 3 of the National Council for Teacher Education Act, 1993 is an expert body whose function is to maintain the standards of education in relation to teachers' education. It was for this body to prepare norms for recognised courses for teachers' education on different levels. The special BTC training course contemplated by the State of U.P. had not been recognised by the National Council for Teacher Education Act under the 1993 Act. It was, therefore, not a recognised teachers' training course. The State Government, therefore, could not have declared it or treated it as equivalent qualification for the purpose of assistant Masters or Assistant Mistresses. Merely because the State was under pressure and in a hurry to recruit a large number of teachers, the requirement of educational standards of the training imparted to the teachers could not be compromised. Strangely, despite recognition of E.Ed/L.T. and other courses recognised by the National Council for Teachers Education Act under the 1993 Act, the State Government had not bothered to declare the equivalence for the purpose of making appointment on posts of Assistant Masters and Assistant Mistress for the schools ran by the Board. The High Court, therefore, pointed out that the Government Order recognizing special BTC course as equivalent qualification was contrary to the provisions of the UP Basic Education Act and provisions of the National Council for Teacher Education Act, 1993, personal Council for Teacher Education Act, 1993 which gives overriding effect to the provisions of the State Act.

20. The U.P. Basic Education (Teachers) Service Rules, 1981 provides under Section 5 for direct requirement to the posts of Assistant Masters and Assistant Mistresses to Junior Basic Schools. The Rules prescribe the qualifications requisite for such posts. Academic qualification required is a bachelor's degree from a University established by law in India or a degree recognised by the Government together with 'training qualification' consisting of a Basic Teacher's Certificate, Hindustani Teacher's Certificate, Junior Teacher's Certificate, Certificate of teaching or any other training course recognised by the Government as equivalent thereto. In the face of these Rules, and particularly keeping in view the provisions of the National Council for Teacher Education Act 1993, no fault can be found with the impugned judgment of the High Court that the special BTC training course formulated by the State Government was contrary to the provision of the impugned Act and Rules and the 1993 Central Act."



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27. The issue here is the extent to which the Court can intervene, in exercise of judicial review. This perspective, and the limits to which the Courts can delve, or probe into the recruitment process, particularly in the absence of allegations of mala fides, or demonstrable arbitrariness, have to be seen in the light of the settled law that the Court would not substitute its opinion to that of an expert, specially in academic matters. This was discussed in *Haq case* 2001 (3) AD 159 (Del) itself, where the Court held, *inter alia*, that:

In the case of University of Mysore, H.H. Anniah Gowda v. C.D. Govinda Rao, AIR 1965 SC 491, University had appointed a board of appointments to select candidates to the post of Reader. The recommendations made by the Board were accepted by the University and the appointments were accordingly made. These appointments were challenged before the Court under Article 226 of the Constitution of India on the ground that candidates did not possess the requisite qualification. Hon'ble Supreme Court held that Court should not interfere in such matters if mere is no allegation of mala fides against persons who constituted the Board. Hon'ble Supreme Court further observed that it will be wiser and safer for the Courts to leave the decision to the experts who are more familiar with the problems they face than the Court generally can be. In the case of M.P. Oil Extraction v. State of Madhya Pradesh, (1997) 7 SCC 592 : AIR 1998 SC 145, it was observed that the executive authority of the State must be held to be within its competence to frame a policy for the administration of the State. Court cannot and should not step out its limit, unless policy framed is absolutely capricious not being informed by any reason whatsoever or offends any constitutional provisions."

19. I may also allude to a recent decision of the Supreme Court in **Navin Kumar (supra)**, wherein it is held as under:

"2. Before the Rajasthan High Court, the National Council for Teachers Education (hereinafter referred to as "NCTE") notification dated 28.06.2018, by which B.Ed. qualified candidates were held eligible was, inter alia, under challenge. In our judgment dated 11.08.2023, we have upheld the Division Bench order of Rajasthan High Court and affirmed the findings that the essential qualification for appointment as primary school teachers is Diploma in Elementary Education and not B.Ed. Consequently, the NCTE notification dated 28.06.2018 and the regulations made therein, by which B.Ed was made a qualification, were quashed and set aside.

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4. The High Court in its judgment dated 02.04.2024 declared all such candidates, having B.Ed. qualification to be ineligible and disqualified for selection to the post of primary school teachers, following the decision of this Court in *Devesh Sharma (supra)*.

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10. One of the arguments of the learned senior counsel (Mr. Shrivastava) for the petitioners before this Court is that this Court in *Devesh Sharma (supra)* had opened a small window for B.Ed. candidates who were called for selection as B.Ed. was one of the qualifications in the 2019 Rules as also in the notification of NCTE and till it was set aside such candidates cannot be called as ineligible. All we had said in *Devesh Sharma (supra)* was that since the law, making B.Ed. as qualification, was not struck down by any Court (as was the position in Rajasthan when recruitment to the post of teachers were taking place in 2019) such candidates ought to have been called at least. This is exactly what was said:

“Having made the above determination we, all the same, are also of the considered opinion that the State of Rajasthan was clearly in error in not calling for applications from B.Ed. qualified candidates, for the reasons that till that time when such an advertisement was issued by the Rajasthan Government, B.Ed. candidates were included as eligible candidates as per the statutory notification of NCTE, which was binding on the Rajasthan Government, till it was declared illegal or unconstitutional by the Court.”

As we know when recruitment to the post of teachers was being made in Rajasthan, B.Ed. was a qualification for teachers as per the NCTE notification. The above observation made by us was only to affirm the findings of the Rajasthan High Court which had although held that B.Ed. was not a valid “qualification” for primary teachers, yet cautioned that the Government could not have ignored the notification of the NCTE till it was declared illegal by a Competent Court. That was all. In Chhattisgarh, this was not the case. B.Ed. qualified candidates were called by the State in the selection process, yet as they were held to be non-qualified by a judgment of this Court, which is the law now and by logic has to be implemented, they were rightly held to be disqualified. How does our observations in *Devesh Sharma (supra)* help the petitioners, we simply fail to understand. This argument is totally misconceived. B.Ed. is not a qualification for a teacher in a Primary School. Moreover, this aspect has already been clarified in the order dated 08.04.2024, where only such candidates have been saved who were selected and appointed prior to our order dated 11.08.2023 in *Devesh Sharma (supra)*. Since the petitioners in the present case were appointed post 11.08.2023 and their appointments were also subjected to the final outcome of the pending writ petition before High Court, they cannot get any benefit. The completion of the selection



process prior to 11.08.2023 is not material. What is important is the date of appointment which is certainly after the cut-off date. They will stand disqualified, as they do not have the essential qualification for appointment as primary school teachers.”

20. From a reading of the judgments aforementioned and the applicable RRs in the present case for appointment to the post of Assistant Teacher, it can be safely held that B.Ed. is neither an essential educational qualification nor Higher Teachers Training Qualification and as the corrigendum is in consonance with the RRs and the law on the subject, the impugned order questioning the validity of the corrigendum on the ground that B.Ed. was deleted from the essential educational qualifications cannot sustain in law.

21. Coming to the issue of prior approval by DoE of the corrigendum in question, in my considered view, this stand of DoE in the impugned order is also without any basis for multiple reasons. Firstly, as noted above, the corrigendum is in consonance with the applicable RRs. Therefore, no illegality can be found with the corrigendum. DoE asserts that before publishing the corrigendum, School ought to have taken prior approval. The stand of the School, *per contra*, is that the action was on the direction of the concerned officer. No doubt, it would have been an ideal situation for the School to have taken approval of DoE before publishing the corrigendum but this technical infirmity is not enough to quash the corrigendum as the same is in accordance with the applicable RRs. Secondly, Rule 98 of DSEAR provides that where DE nominee is present in the Selection Committee no approval is required. Thirdly and most importantly and as rightly flagged by the counsels for the Petitioners and the School, minutes of the meeting of the Selection Committee reflect that the corrigendum was brought to the notice of the members and being mindful of the same and



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after examining the corrigendum and the applicable RRs, the Selection Committee, comprising of the DE nominee, proceeded with the selection process and there is thus ratification of the corrigendum. All members have signed on the minutes and there is no dissent.

22. In view of the aforesaid, impugned order/letter dated 14.06.2017 is hereby quashed. Appointments of the Petitioners to the post of Assistant Teacher in the School is hereby declared as valid and it is directed that DoE shall release the grant-in-aid for payment of their salaries and other emoluments. Interim order dated 30.10.2017, whereunder Petitioners have continued to serve, is made absolute. Consequential benefits to which the Petitioners are entitled shall be released to them within three months from today.

23. Writ petition is allowed and disposed of in the aforesaid terms.

JYOTI SINGH, J

OCTOBER 23, 2024/jg