

09.12.2025
Sl. No.1
Ct. No.14
ss/srm

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 26947 of 2025

**ASHIKUR RAHAMAN SHAIKH AND ORS.
VS
STATE OF WEST BENGAL AND ORS.**

Mr. Sabir Ahmed
Mr. Ali Ahsan Alamgir
Ms. Rabia Khatoon
Ms. Soma Mal
Ms. June Modak

...for the Petitioners.

Mr. Bhaskar Prasad Vaisya
Mr. Nirmal Kanti Ghosh

...for the State.

Mr. Subir Sanyal, Sr. Adv.
Mr. Dwarikanath Mukherjee
Mr. Ratul Biswas
Mr. Kaushik Chowdhury

...for WBBPE.

Ms. Asha G. Gutghutia

...for NCTE.

Mr. Piush Chaturvedi, Sr. Adv.
Mr. Chittapriya Ghosh
Mr. Somesh Ghosh
Mr. Vinayak Chaturvedi

...for the Respondent Nos.10 to 15.

1. This matter is appearing in the list under the heading 'For Order'.
2. By the present writ petition the petitioners seek for direction upon the West Bengal Board of Primary Education (*in short*, 'WBBPE') to declare the petitioners who are candidates of 2-year Diploma in Elementary

Education (*in short*, 'D.El.Ed.') course for the session 2023-2025 to be eligible to participate in the recruitment process in terms of Notification being Memo No.2141/ WBBPE/2025/59R-09/2024 dated 25th September, 2025 read with Notification being Memo No.2367/ WBBPE/2025/59R-09/2024 dated 19th November, 2025 and also to publish the results of D.El.Ed. course.

3. The petitioners contend that they have all qualified in Teachers' Eligibility Test, 2022 (*in short*, 'TET 2022') with B.Ed. qualification. The petitioners have taken admission to 2-year course in D.El.Ed. for the session 2023-2025. The petitioners have completed the D.El.Ed. course 2023-2025 and appeared in the final examination. The results of the said course are awaited. On the basis of being qualified in TET 2022 and having completed D.El.Ed. course, the petitioners intend to participate in the ongoing recruitment process, which has been initiated by WBBPE in terms of its notification dated 25th September, 2025 read with notification dated 19th November, 2025.
4. Upon hearing learned Advocates for the respective parties following issues have fallen for consideration:
 - i) Whether the petitioners who have qualified in TET, 2022 is eligible to participate in the recruitment process initiated vide Notification being Memo No.2141/WBBPE/2025/59R-09/2024 dated 25th September, 2025 read with

Notification being Memo No.2367/
WBBPE/2025/59R-09/2024 dated 19th
November, 2025?

- ii) Whether the petitioners who have completed D.El.Ed. course but results are yet to be declared can be allowed to participate in the ongoing recruitment process?
- iii) Whether there is any deliberate and intentional laches on the part of WBBPE in non-publication of the results of D.El.Ed. course 2023-2025?
- iv) Whether there is suppression of material facts by the petitioners in the present writ petition?

Issue No.1: Whether the petitioners who have qualified in TET, 2022 is eligible to participate in the recruitment process initiated vide Notification being Memo No.2141/WBBPE/ 2025/59R-09/2024 dated 25th September, 2025 read with Notification being Memo No.2367/ WBBPE/ 2025/59R-09/2024 dated 19th November, 2025?

5. Admittedly the petitioners have passed TET, 2022 with B.Ed. qualification and have appeared in the final examination of D.El.Ed. course for the session 2023-2025.

5.1. Mr. Sabir Ahmed, learned Advocate for the petitioners submit that as per the recruitment notification for the post of Assistant Teachers in primary schools, the requisite qualification is that the candidates should have TET qualification and have passed D.El.Ed. course. The petitioners are TET qualified in the year 2022. The petitioners have already completed the D.El.Ed.

academic course of 2-year for the session 2023-2025. Although the Board has conducted the examination of final semester of D.El.Ed. for the session 2023-2025 but till date they have not published the results. The petitioners who are eligible in TET 2022 are unable to participate in the ongoing recruitment process only due to non-publication of said D.El.Ed. course by the Board. In the meantime, the recruitment notification has been published on 25th September, 2025. Accordingly, the petitioners, who intend to participate in the ongoing recruitment process, seeks for appropriate orders.

5.2. On the contrary, Mr. Subir Sanyal, learned Senior Advocate appearing on behalf of the WBBPE submits that by notification dated 28th June, 2018 the National Council for Teacher Education (*in short*, 'NCTE') included the candidates with graduation of at least 50% marks and Bachelor of Education (B.Ed.) as one of the qualifications for appointment as teachers in classes I to V provided that he or she shall mandatorily undergo Bridge Course recognised by NCTE within two years of such appointment as primary teachers. Challenging such notification of NCTE, several writ petitions were filed in different High Courts throughout India. The Hon'ble Rajasthan High Court was the first Court to set aside the said notification of NCTE. The aforesaid order of the Hon'ble Rajasthan High Court was assailed before the Hon'ble Supreme Court by way of Special Leave Petition being *SLP(C) No.20743 of 2021 (Devesh Sharma*

versus Union of India). In the meantime, the WBBPE issued a notification for conducting TET, 2022 being Notification No.1572/WBBPE/2022 dated 29th September, 2022 notifying that the Board is going to hold TET, 2022 for qualified trained candidates including B.Ed. candidates of West Bengal seeking appointment to the post of Assistant Teachers in Government aided/sponsored/junior basic primary schools. The said notification was assailed by some of the D.El.Ed. candidates before this Court in *WPA 23202 of 2022 (Ujjal Haldar and ors. –versus- Union of India & ors.)*. The said writ petition was disposed of by order dated 18th October, 2022 directing that the candidature of the B.Ed. qualified candidates shall abide by the result of the pending Special Leave Petition before the Hon'ble Supreme Court in *Devesh Sharma (supra)* including the fate of the intending candidates, who are covered by the said notification dated 28th June, 2018. The Board has also issued notification being No.1770/WBBPER/2022 notifying that the candidates having B.Ed. qualification will be allowed to apply and appear in TET 2022 subject to final result of the *SLP(C) No.20743 of 2021 (Devesh Sharma –versus- Union of India)* pending before the Hon'ble Supreme Court. By its judgement dated 11th August, 2023 the Hon'ble Supreme Court was pleased to affirm the order of the Hon'ble Rajasthan High Court and set aside the notification being F. No.NCTE-Regd 012/16/2018 dated

28th June, 2018 of NCTE thereby holding that the B.Ed. is not a requisite qualification for teachers for primary schools and that the Central Government has acted against the Constitution and the laws. The effect of the said judgement of the Hon'ble Supreme Court is retrospective meaning thereby that the petitioners who qualified in TET, 2022 with B.Ed qualification cannot be treated to be valid candidates upon setting aside of notification dated 28th June, 2018. Some of the candidates who were already appointed as teachers in primary schools in the State of Madhya Pradesh filed a miscellaneous application before the Hon'ble Supreme Court seeking to give prospective effect to the judgement. Upon hearing, the Hon'ble Apex Court protected only those candidates who were already appointment and none else. To buttress his contention, he relies on the decision of the Hon'ble Supreme Court in ***Devesh Sharma -versus- Union of India***, reported in **2023 (18) SCC 339** as well as the clarification order 8th April, 2024. He also indicates that the added respondents and others preferred a writ petition before this Hon'ble Court praying *inter alia* for cancellation of TET, 2022 results as well as certificates issued in favour of the candidates who appeared in TET, 2022 with their B.Ed. qualification in terms of Notification dated 29th September, 2022. This Court was pleased to pass order not to process recruitment for the post of Assistant Teachers for TET, 2022 candidates with B.Ed.

qualification or D.El.Ed. (N.I.O.S.) qualification under WBBPE. The said order has been made absolute till the disposal of the said writ petition. Thus, the petitioners, who are TET, 2022 qualified with B.Ed. degree, are not eligible to appear in the ongoing recruitment process.

5.3. Mr. Piush Chaturvedi, learned Senior Advocate appearing on behalf of the added respondent nos.10 to 15 adopting the submission of Mr. Sanyal, learned Senior Advocate appearing on behalf of the WBBPE, indicates that with the passing of the judgment in *Devesh Sharma (supra)*, the notification dated 28th June, 2018 has become non-existent and *void ab initio*. By the clarificatory order passed in *Devesh Sharma (supra)* only candidates who have already been appointed as primary teachers were protected and none else. Orders have been passed in earlier writ petitions where the fate of the candidates who qualified in TET, 2022 was subjected to the result in *Devesh Sharma (supra)*. No appeal has been preferred against the said order. Notice has also been issued by the Board notifying that the fate of the candidates of TET, 2022 is subjected to the result in *Devesh Sharma (supra)*. In a writ petition being Writ Petition (Civil) No. 355 of 2022, the petitioners prayed for allowing them to appear in Rajasthan Teachers Eligibility Test. The examination process of Rajasthan Teachers Eligibility Test 2022 was subjected to final order to be passed by the Court in *Devesh Sharma (supra)*. The Hon'ble Supreme Court in paragraph no.63

in *Devesh Sharma (supra)* has categorically held that the NCTE was not justified in including B.Ed. as a qualification to the post of primary school teacher level-I and struck down the notification dated 28th June, 2018. Thus, the petitioners who claim to be TET, 2022 qualified, have become ineligible to appear or participate in the ongoing recruitment process in view of the decision in *Devesh Shama (supra)* which struck down the notification of NCTE dated 28th June, 2018.

5.4. In reply to the aforesaid contentions raised on behalf of the respondent-WBBPE as well as added respondent nos.10 to 15, Mr. Ahmed, learned Advocate for the petitioners referring to paragraph 80 of the *Devesh Sharma (supra)* submits that B.Ed. qualification which was introduced vide notification of NCTE is valid till it is declared illegal or unconstitutional by the Court. Even if the Board is of the opinion that such notification was unconstitutional or for any reason illegal, the same had to be stayed or set aside by the competent Court before it could be ignored. Therefore, the candidates who qualified in TET, 2022 are valid candidates till the decision was rendered in *Devesh Sharma (supra)* declaring such notification of NCTE as unconstitutional. Furthermore, referring to paragraph 81 of the decision in *Devesh Sharma (supra)* and relying on the decision of Hon'ble Supreme Court in ***State of Manipur -versus- Surjakumar Okram*** reported in **(2022) 19 SCC 723**, he submits that statute which is made by a competent

legislature is valid till it is declared unconstitutional by a court of law. In declaration of the law, the doctrine of prospective overruling is applicable. Thus, the setting aside of notification of NCTE dated 28th June, 2018 in *Devesh Sharma (supra)* can never have retrospective effect, for which reason the Hon'ble Supreme Court has protected the candidates who were already appointed as primary teachers prior to delivery of its judgment. In the same breadth, he submits that the petitioners who have qualified in TET, 2022 with B.Ed. qualification also needs to be protected. He further indicates that TET and recruitment process are distinct and different. Moreover, the certificate of TET, 2022 issued in favour of the petitioners has not yet been recalled or cancelled by the Board. Therefore, the Board in no way can challenge the validity of the candidates who succeeded in TET, 2022.

5.5. Mr. Sanyal, learned Senior Advocate appearing for the Board has argued giving clarification that the doctrine of prospective overruling can only be exercised by Hon'ble Supreme Court in exercise of powers under Article 142 of the Constitution of India. Relying on a decision of Hon'ble Supreme Court passed in ***State of Punjab and Ors. versus Rafiq Masih*** reported in **(2018) 8 SCC 883**, he submits that such powers has been given to the Hon'ble Supreme Court in order to do complete justice. Similarly, Mr. Chaturvedi learned Senior Advocate appearing for the added respondent nos. 10 to 15 clarified that the subsequent order passed by Hon'ble

Supreme Court in *Devesh Sharma (supra)* is in exercise of powers under Article 142 of the Constitution of India, which the High Court cannot exercise. In support of his contention, he relies on the decision of Hon'ble Supreme Court in ***State of Punjab and Ors. versus Surinder Kumar and Ors.*** reported in ***AIR 1992 SC 1593***.

5.6. Admittedly, the petitioners before this Court have passed TET, 2022 with B.Ed. qualification and they have been issued certificates to that effect.

5.7. On 28th June, 2018, the NCTE issued a notification which is reproduced hereinbelow for better appreciation:

*"National Council for Teacher Education
Notification*

New Delhi, the 28th of June, 2018

F. No. NCTE-Regl 012/16/2018-In exercise of the powers conferred by sub-section (1) of Section 23 of Right to Children to Free and Compulsory Education Act, 2009 (35 of 2009) and in pursuance of notification number S.P. 750(E), dated the 31st March, 2010 issued by the Department of School Education and Literacy, Ministry of Human Resource Development, Government of India, the National Council for Teacher Education (NCTE) hereby makes the following further amendments notification number F.N. 61-03/20/2010/NCTE/(N&S). dated the 23rd August, 2010 published in the Gazette of India, Extraordinary, Part III, Section 4, dated the 25th August, 2010 hereinafter referred to as the said notification namely:-

(1) In the said notification, in para 1 in sub-para (i), in clause (a) after the words and brackets "Graduation and two year Diploma in Elementary Education (by whatever name known), the following shall be inserted, namely:-

OR

"Graduation with at least 50% marks and Bachelor of Education (B.Ed.)"

2. In the said notification in para 3, for sub-para (a), the following sub-para shall be substituted namely:-

"(a) who has acquired the qualification of Bachelore of Education from any NCTE Recognized institution shall be considered for appointment as a teacher in classes I to V provided the person so appointed as a teacher shall mandatorily undergo a six month Bridge course in Elementary Education recognized by the NCTE, within two years of such appointment as primary teacher"

(Emphasis supplied)"

5.8. Thus, by dint of the aforesaid notification of NCTE, B.Ed. qualification was included for appointment to the

post of Assistant Teachers in the primary schools. The aforesaid notification was set aside by the Hon'ble Rajasthan High Court in ***Rajendra Singh Chotiya - versus- NCTE***, reported in ***2021 SCC OnLine Raj 4372***. The said order of the Hon'ble Rajasthan High Court was assailed in appeal before the Hon'ble Supreme Court in Civil Appeal No.5068 of 2023 (arising out of Special Leave Petition (C) No.20743 of 2021) along with other writ petitions (***Devesh Sharma -versus- Union of India***).

5.9. The WBBPE issued a notification for conducting TET, 2022 being Notification No.1572/WBBPE/2022 dated 29th September, 2022 notifying that the Board is going to hold TET, 2022 for qualified trained candidates including B.Ed. candidates of West Bengal seeking appointment to the post of Assistant Teachers in Government aided/sponsored/junior basic primary schools.

5.10. Needless to mention that the notification of the Board for holding TET, 2022 was assailed before this Hon'ble Court in WPA 23202 of 2022 (*Ujjal Halder & ors. -versus- Union of India & ors.*). The said writ petition was disposed on 18th October, 2022 by passing the following orders :

“Considering the rival submissions and the materials on record, this Court makes it clear that all the steps taken and to be taken in terms of the said notification dated September 29, 2022, annexure-P/1 to the writ petition shall abide by the result of the said pending Special Leave Petition before the Hon'ble Supreme Court, including the fate of the intending candidates, who are covered by the said notification dated June 28, 2018.”

5.11. On 7th November, 2022, the Board issued a notification notifying that all steps taken and to be taken in terms of Notification No.1572/ WBBPE/2022 dated 29th September, 2022 by which the TET, 2022 was to be conducted shall abide by the result of Civil Appeal No.5068 of 2023 (arising out of SLP(C) 20743 of 2022) (the year has been wrongly typed). The TET, 2022 was conducted allowing the candidates with B.Ed. qualification on the basis of the notification of NCTE dated 28th June, 2018. However, the fate of TET, 2022 candidates were subject to the result in the Special Leave Petition in *Devesh Sharma (supra)*.

5.12. The Hon'ble Apex Court disposed of the Special Leave Petition on 11th August, 2023 and in paragraph 63 of *Devesh Sharma (supra)* held as follows:

"Our considered opinion, therefore, NCTE was not justified in including BEd as a qualification for appointment to the post of primary school teacher (Level 1), a qualification it had so far consciously kept out of the eligibility requirement. The Rajasthan High Court by way of the impugned judgment had rightly struck down the Notification dated 28-6-2018, on the following grounds: (Rajendra Singh Chotiya case, SCC OnLine Raj para 49)

"49.... (i) The impugned Notification dated 28-6-2018 is unlawful because:

(a) it is under the direction of the Central Government, which power the Central Government under sub-section (1) of Section 23 of the RTE Act did not have; and

(b) it is not in exercise of power of the Central Government under sub-section (2) of Section 23 of the RTE Act relaxing the eligibility criteria prescribed by NCTE, nor there has been any exercise for ascertaining existence of the conditions precedent for exercising such power.

(ii) The petitioners have locus standi to challenge the Notification dated 28-6-2018. Merely because an additional qualification is recognised as one of the eligibility criteria, the petitioners cannot be prevented from challenging it.

(iii) Accepting a candidate with BEd degree as eligible for appointment and thereafter subjecting him to complete the bridge course within two years of appointment is in the nature of relaxing the existing eligibility criterion, which the Central Government could have done only within sub-section (2) of Section 23 and subject to existence of circumstances necessary for exercise of such power.

(iv) The State Government could not have ignored the Notification of NCTE dated 28-6-2018 while issuing advertisement for REET. However, when we have declared that this notification is illegal and are in the process of setting aside, the issue becomes one of academic value."

5.13. Thus, by the judgement in the *Devesh Sharma (supra)* the notification of NCTE allowing B.Ed. qualification as a requisite qualification for appointment of Assistant Teachers in primary schools was set aside and struck down by the Hon'ble Apex Court.

5.14. Mr. Ahmed, learned Advocate appearing for the petitioners relying on *Surjakumar Okram (supra)* has strenuously argued that the effect of the decision of the Hon'ble Supreme Court in *Devesh Sharma (supra)* is to act prospectively and not retrospectively. In order to examine the argument as advanced on behalf of the petitioner, as aforesaid, it would be apposite to reproduce the clarificatory order passed in Miscellaneous Application in *Devesh Sharma (supra)*:

"In the given facts, we find that the question as to whether the judgment would be prospective or not was not stated by us in the judgment delivered on 11th August, 2023. Ordinarily a judgment acts retrospectively unless it is specifically stated to be otherwise. Moreover, this matter has been heard on several occasions and the points urged by the respective parties have been taken note of by us.

As it appears that candidates with B.Ed. a large number of degree had already been appointed on the basis of eligibility criteria specified by the educational authorities, we do not think it to be equitable to effect their removal. We, accordingly hold that the judgment delivered by this Bench on 11th August, 2023 shall have prospective operation. But prospective operation of this judgment shall be only for those candidates who were appointed without any qualification or conditions imposed by any Court of Law to the effect that their appointment would be subject to final outcome of the case which might have had been instituted by them and such candidates were in regular employment without any disqualification and were appointed in pursuance of a notice of advertisement where B.Ed. was stipulated to be valid qualification. Services of only such candidates shall not be disturbed because of this judgment. We make it clear that this benefit is only for the candidates who were appointed prior to the date our judgment was delivered, on 11th August, 2023.

Mere selection of such candidates or their participation in the process will not entitle them for a benefit under our present order.”

5.15. In view of the aforesaid, it is found that the Hon’ble Supreme Court has categorically held that ordinarily a judgment acts retrospectively unless it is specifically stated to be otherwise. It has further been clarified that the benefit has been extended only for those candidates who were appointed prior to the date of judgment i.e. 11th August, 2023. It has also been held that mere selection of such candidates or their participation in the process will not entitle them for a benefit under the present order.

5.16. In *Surjakumar Okram (supra)*, the Hon’ble Apex Court has relied on the proposition in ***Golak Nath versus State of Punjab*** reported in **1967 SCC OnLine SC 14**, which is reproduced hereunder.

“33. The following propositions were laid down by this Court in Golak Nath: (SCC OnLine SC para 52)

“52.... (1) The doctrine of prospective overruling can be invoked only in matters arising under our Constitution;

(2) it can be applied only by the highest Court of the country i.e. the Supreme Court as it has the constitutional jurisdiction to declare law binding on all the courts in India;

(3) the scope of the retroactive operation of the law declared by the Supreme Court superseding its earlier decisions is left to its discretion to be moulded in accordance with the justice of the cause or matter before it.”

Though Golak Nath¹ applied the doctrine of prospective overruling in the context of earlier decisions of this Court on the same issues which had otherwise become final, the doctrine of prospective overruling has been applied by this Court even where the issue was being decided by the Court for the first time.

34. While laying down the principles of prospective overruling, this Court in Golak Nath dealt with the scope of Article 142 of the Constitution of India and held that the said provision enables the Supreme Court to pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it.”

5.17. The proposition as laid down in *Golak Nath (supra)* has been followed by the Hon’ble Apex Court in *Surjakumar*

Okram (supra) and it clearly lays down that doctrine of prospective overruling can be applied by the highest Court i.e. the Hon'ble Supreme Court and orders can be passed by the Hon'ble Court in exercise of power under Article 142 of the Constitution to do complete justice. This Court is in consonance with argument advanced in this regard on behalf of Board and added respondents relying on *Rafiq Masih (supra)* and *Surinder Kumar (supra)* that prospective overruling can only be applied by Hon'ble Supreme Court under Article 142 of Constitution of India and not by the High Court. For such reason, the argument advanced on behalf of the petitioners that the proposition in *Devesh Sharma (supra)* is to act prospectively is not sustainable.

5.18. In view of the above discussion, since the notification dated 28th June, 2018 is set aside in *Devesh Sharma (supra)*, hence it has become non-existent. Therefore, the TET, 2022 qualified candidates with B.Ed. qualification cannot said to be eligible to participate in the ongoing recruitment process.

5.19. It will not be out of place to reproduce the orders passed on 13th February, 2024 and 21st February, 2024 in *Ms. Shilpi Sen & Ors. vs. The State of West Bengal & Ors. (In Re: WPA 2661 of 2024)*, wherein the petitioners sought for cancellation of the result of the TET, 2022 and the certificate issued thereupon.

“12. Let no process of recruitment for the post of Assistant Teachers for 2022, candidates with B.Ed. qualification or D.El.Ed.(N.I.O.S.) qualification under the WBBPE be advertised in the meantime.

.....
 16. The interim order already passed shall continue
 until disposal of the writ petition. The parties may apply for
 modification.”

5.20. Mr. Ahmed, learned Advocate appearing on behalf of the petitioners, referring to the supplementary affidavit, indicates that some of the candidates who have qualified TET, 2022 with B.Ed. qualification have been allowed by the Board to participate in the recruitment process. He has also placed reliance on the report filed by the Board in WPA 5122 of 2024 (*Subhrangshu Pathak & Ors. vs. The State of West Bengal & Ors.*) wherein he submits that the Board has conceded that the candidates passed in TET, 2022 with B.Ed. training qualification may be considered as TET, 2022 passed candidates since the candidates were already declared as TET, 2022 qualified. In reply, Mr. Sanyal, learned Senior Advocate appearing on behalf of the WBBPE informs the Court that though such application has been accepted but it is the consistent view of the Board not to allow any candidate of TET, 2022 qualified with B.Ed. qualification in the ongoing recruitment process. He further clarifies that though the Board has stated in such report that TET, 2022 has been shown to be qualified but that is subject to the solemn order of the Hon'ble Supreme Court in *Civil Appeal No.5068 of 2023 (arising out of SLP (C) No.20743 of 2021) (Devesh Sharma -versus- Union of India & ors.)*. In view of the discussion made hereinabove, these factors can hardly have any

consequence so far eligibility of petitioners are concerned.

5.21. Relying on an order of the Hon'ble Supreme Court passed in *Transfer Petition (Civil) Diary No(s). 11895/2025 (Subhash Chand & Ors. versus State of Punjab & Ors.)*, Mr. Ahmed, learned advocate for the petitioners submits that the Hon'ble Supreme Court has given the opportunity to the candidates with qualification of B.Ed. and bridge course to participate in the selection process. Upon going through the facts of the cited case, it appears that the petitioners therein are teachers in private schools and the Hon'ble Apex Court has granted liberty to participate in the selection process. The aforesaid order of the Hon'ble Apex Court does not lay down any proposition. Rather it made clear that it shall not create any equity in favour of the petitioners and will be subject to the outcome of the Special Leave Petition. The facts are distinguishable from the case at hand.

Issue No.2: Whether the petitioners who have completed D.El.Ed. course but results are yet to be declared can be allowed to participate in the ongoing recruitment process?

6. Mr. Ahmed, learned Advocate for the petitioners submits that the petitioners have already completed their D.El.Ed. course and final examinations have also been conducted by the Board. However, the results have not been declared. Due to non-publication of the results, the petitioners are unable to take part in the recruitment

process. Relying on *Soumen Pal & Ors. vs. Shrabani Nayek & Ors. (In Re: SLP (C) No.12660 of 2023)*, he submits that since Rule 6(2) of West Bengal Primary School Teachers Recruitment Rules, 2016 (hereinafter referred to as “Recruitment Rules, 2016”) does not provide any cut-off date to obtain the qualification, the qualification on the last date appointed for receipt of application is to be considered. Therefore, if the Board publishes the results of D.El.Ed. course within the last date i.e. 9th December, 2025 it will definitely make the petitioners eligible to participate in the ongoing recruitment process.

6.1. Mr. Sanyal, learned Senior Advocate appearing for WBBPE submits that on conjoint reading of Rule 6(2) of the Recruitment Rules, 2016 (as amended) as well as recruitment notification dated 25th September, 2025, there cannot be any doubt that the candidates must possess two years D.El.Ed. course on the date of advertisement. Since the petitioners do not possess the qualification on the date of advertisement of recruitment they are ineligible to be taken into zone of consideration. He informs the Court that final examination has been conducted only on 15th November, 2025. The Board requires reasonable time to publish the results. In similar circumstances, this Court in earlier writ petitions have turned down such prayer. In support of his contention, he relies on the decision of this Court in ***Koyeli Chakraborty & Ors. versus State of West***

Bengal & Ors. and one other writ petition reported in **2017 SCC OnLine Cal 356**. Further, relying the decision of Hon'ble Supreme Court in passed in **Tejprakash Pathak vs. Rajasthan High Court** reported in **(2025)2 SCC 1**, he submits that the Rules of the game must not be changed in midway or after the game has been played. Once the recruitment process commences the rules cannot be changed thereafter. As on the date of advertisement the petitioners do not possess the required qualification, the procedure and eligibility of recruitment process cannot be changed or moulded by allowing the petitioners to participate in the recruitment process who till date are pursuing the course of D.El.Ed., since the final results are still not declared.

6.2. Mr. Chaturvedi, learned Senior Advocate appearing for the added respondent Nos.10 to 15 submits that the petitioners have not yet passed D.El.Ed. As per the notification, candidates who have passed D.El.Ed. on the date of advertisement can apply. Relying on the decision of Hon'ble Supreme Court in **Parimal Kumar & Ors. versus The State of Jharkhand & Ors.** reported in **(2025) 1 SCR 1953** he submits that the rule of the game cannot be moulded once the recruitment process is initiated.

6.3. In order to examine the issue under reference, it would be profitable to reproduce Rule 6(2) of the Recruitment

Rules, 2016. This sub-rule was later amended by a notification dated 22.12.2020 in the following terms:

“(2) The candidate shall possess the minimum educational and training qualification as prescribed by the National Council for Teacher Education prevailing as on date of publication of recruitment notification.”

6.4. The aforesaid rule provides that the candidates shall possess the minimum educational and training qualification as prescribed by the National Council for Teacher Education prevailing as on date of publication of recruitment notification. In *Soumen Paul (supra)*, the Hon’ble Supreme Court has considered the provision and has observed that to ensure that the latest prescription of NCTE should be made applicable for any recruitment, the rule also provides that the qualifications prescribed by NCTE, *“prevailing as on the date of publication of recruitment notification,”* must be possessed by the candidate. It further observed that the intendment of Rule 6(2) of the Recruitment Rules, 2016 is only to declare that the qualifications as prescribed by NCTE and that are prevailing on the date of publication of the recruitment notification should be possessed by the candidate.

6.5. Clause 3 of recruitment of the advertisement dated 25th September, 2025 is quoted hereunder for convenience:

“(3) Qualifications requirement:

(a) The candidate must be a citizen of India.

(b) The candidate must have passed :

Higher Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education

OR

Higher Secondary (or its equivalent) with at least 45% marks and 2-year Diploma in Elementary Education

OR

Higher Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (B.El.Ed.)

OR

Higher Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Education (Special Education)

OR

Graduation and Two Year Diploma in Elementary Education

AND

Teacher Eligibility Test (TET) (conducted by the West Bengal Board of Primary Education adhering to the rules and principles set by NCTE)"

6.6. On conjoint reading of Rule 6(2) of Recruitment Rules, 2016 as well as clause 3(b) of the notification issued by the Board it would construe that the candidates should possess the requisite qualification on the date of publication of the advertisement. Moreover, it is pertinent to note that in *Soumen Paul (supra)*, the recruitment notification of the Board allowed the pursuing candidates of D.El.Ed. to take part in the recruitment process which is quite distinct from the present notification which in unambiguous terms in clause 3(b) of the advertisement clearly stipulates that the candidates who have passed should be allowed to take part in the recruitment process. Furthermore, this Court finds substance in submissions of Mr. Sanyal and Mr. Chaturvedi, learned Senior Advocates that the rule of the game cannot be changed as held by the Hon'ble Supreme Court in *Tej Prakash Pathak (supra)*. The Constitution Bench has also clarified that the recruitment process commences from the date of issuance of the advertisement and concludes with the

filling up of notified vacancies. The observation of Hon'ble Supreme Court is reproduced hereunder:

"13. The process of recruitment begins with the issuance of advertisement and ends with the filling up of notified vacancies. It consists of various steps like inviting applications, scrutiny of applications, rejection of defective applications or elimination of ineligible candidates, conducting examinations, calling for interview or viva voce and preparation of list of successful candidates for appointment."

"42. We, therefore, answer the reference in the following terms -

(1) Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies;

(2) Eligibility criteria for being placed in the Select List, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;

(3) The decision in K. Manjusree (supra) lays down good law and is not in conflict with the decision in Subash Chander Marwaha (supra). Subash Chander Marwaha (supra) deals with the right to be appointed from the Select List whereas K. Manjusree (supra) deals with the right to be placed in the Select List. The two cases therefore deal with altogether different issues;

(4) Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non-discriminatory/non-arbitrary and has a rational nexus to the object sought to be achieved.

(5) Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the Rules are non-existent, or silent, administrative instructions may fill in the gaps;

(6) Placement in the select list gives no indefeasible right to appointment. The State or its instrumentality for bona fide reasons may choose not to fill up the vacancies. However, if vacancies exist, the State or its instrumentality cannot arbitrarily deny appointment to a person within the zone of consideration in the select list."

6.7. The position of law as per *Tej Prakash Pathak (supra)* is, therefore, clear that the recruitment process commences from the issuance of the advertisement and that eligibility criteria as laid down therein cannot be

changed midway during the recruitment process unless the extant rules or the advertisement permit such a change after the issuance. In the event such a power to amend is reserved in the advertisement or the rules, it must be tested on the anvil of Article 14 and pass the test of non-arbitrariness.

6.8. The proposition in *Tej Prakash Pathak (supra)* has been followed in *Parimal Kumar (supra)* by Hon'ble Apex Court.

6.9. Therefore, a pursuing candidate of D.El.Ed. course whose results are awaited cannot be allowed to participate in the recruitment process which has already been initiated by notifications dated 25th September, 2025 read with notification dated 19th November, 2025.

Issue No.3: Whether there is any deliberate and intentional laches on the part of WBBPE in non-publication of the results of D.El.Ed. course 2023-2025?

7. The petitioners have taken admission in two years D.El.Ed. course for the session 2023-2025. It is not in dispute that after completion of the course, the petitioners have appeared in the final examination only on 15th November, 2025 conducted by the Board. There cannot be any quarrel that a reasonable time is required for assessment of the answersheet in order to publish the results, which in all prudence cannot be done hurriedly. Nothing has been placed on record that the Board has acted arbitrarily in order to debar the

petitioners for taking part in the recruitment process by not publishing the results of D.El.Ed course.

7.1. In view of the above, taking into consideration the date of final examination of D.El.Ed., this Court is of the view that there are no such deliberate and intentional laches on the part of the Board in not publishing the results of D.El.Ed course. However, it is expected that the Board will publish the results of two years D.El.Ed. course of 2023-2025 as expeditiously as possible within a reasonable period of time.

Issue No.4: Whether there is suppression of material facts by the petitioners in the present writ petition?

8. Mr. Subir Sanyal, learned Senior Advocate appearing for the Board submits that previously some of the petitioners arrayed in the present writ petition has filed the earlier writ petition wherein they have prayed for updating of data and for considering the D.El.Ed. Degree holder valid candidates to appear in primary teacher recruitment process conducted by the authority. The said aspect has been suppressed in the present writ petition. The petitioners can only seek equity if materials truths are disclosed before the Court. When a party suppresses or makes a false statement, the Court cannot permit to use its process, entertaining the matters on merits and in such circumstances, it would amount to encouraging misconduct. The litigant must show respect to the truth. When he does not do so he cannot expect the Court to exercise discretion in his

favour. To buttress his contention, he relies on the decision of the Hon'ble Bombay High Court in ***Ramrao Tukaram Patil and others -versus- State of Maharashtra, through Secretary, Department of Cooperation and others*** reported in **2025 SCC OnLine Bom 4462**.

- 8.1. In reply to such contention, Mr. Ahmed, learned Advocate appearing on behalf of the petitioners submit that the cause of action of both the writ petitions are distinct and different. Therefore, there is no deliberate suppression of material facts before this Hon'ble Court.
- 8.2. It is informed by the learned advocates that some of the petitioners herein, have filed an earlier writ petition being WPA 10942 of 2025 wherein following direction has been sought upon the respondent authorities (a) A writ of and/or in the nature of Mandamus do issue commanding the respondents, their agents, servants, subordinates, employees and/or assignees, to update and/or alter teacher training data of the petitioners in West Bengal Board of Primary Education database and certify in this regard; (b) Issue a writ of and/or in the nature of Mandamus do issue commanding the respondents authorities and each of them to give appointment to the petitioner; (c) A writ in the nature of Mandamus commanding the respondents and each of them to take necessary steps so that the petitioners can consider as D.El.Ed. degree holder valid candidates to appear in primary teacher training recruitment process

conducted by the authority; (d) A writ of and/or in the nature of Mandamus do issue commanding the respondents, their agents, servants, subordinates, employees and/or assignees, to allow the petitioners in subsequent selection process for the recruitment of assistant teacher for classes I-V; (e) A declaration declaring that the TET certificate of the petitioners are valid for lifetime as per NCTE; (f) A declaration declaring that the petitioners all are eligible TET, 2022 passed candidate to participate in any future selection process for primary teacher recruitment whenever it is conducted by the authority.

8.3. The question whether the petitioners are eligible on the basis of TET 2022 is a relevant issue herein. In the earlier writ petition, declaration has been sought for that the TET certificate of the petitioners are valid for lifetime as per NCTE and the petitioners all are eligible TET, 2022 passed candidate to participate in any future selection process for primary teacher recruitment whenever it is conducted by the authority. Thus, it appears that the earlier writ petition is relevant in the context of the present writ petition. The earlier writ petition has not been disclosed in the instant writ petition.

8.4. In ***Arunima Baruah v. Union of India*** [***Arunima Baruah versus Union of India*** reported in (2007) 6 SCC 120, following the aforesaid dictum, a Division

Bench of this Hon'ble Court held as hereunder: (SCC p. 125, para 12)

"12. It is trite law that so as to enable the court to refuse to exercise its discretionary jurisdiction suppression must be of material fact. What would be a material fact, suppression whereof would disentitle the appellant to obtain a discretionary relief, would depend upon the facts and circumstances of each case. Material fact would mean material for the purpose of determination of the lis, the logical corollary whereof would be that whether the same was material for grant or denial of the relief. If the fact suppressed is not material for determination of the lis between the parties, the court may not refuse to exercise its discretionary jurisdiction. It is also trite that a person invoking the discretionary jurisdiction of the court cannot be allowed to approach it with a pair of dirty hands. But even if the said dirt is removed and the hands become clean, whether the relief would still be denied is the question."

- 8.5. This Court is of the view that such aspect ought to have been disclosed in the present writ petition.
9. In view of the above discussion, this writ petition falls short of merit.
10. Accordingly, the writ petition being no. **WPA 26947 of 2025** stands dismissed.
11. Interim order, if any, stands vacated.
12. All connected applications, if any, stand disposed of.
13. There shall be no order as to costs.
14. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
15. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)