

18.12.2025
Sl. Nos.256&257(DL)
Ct. No.14
srm

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

**WPA No. 24180 of 2025
Madhusudan Adhya & Ors.
Versus
The State of West Bengal & Ors.**

With

**WPA No. 28014 of 2025
Anup Sarkar & Ors.
Versus
The State of West Bengal & Ors.**

Mr. Sudipta Dasgupta,
Ms. Suryatapa Das,
Ms. Sinjini Chakrabarti

...for the Petitioners.

Mr. Ratul Biswas,
Mr. Kaushik Chowdhury

...for the WBBPE.

Mr. Suman Dey

...for the State in WPA No. 28014 of 2025.

Ms. Asha G. Gutgutia

...for the NCTE.

1. Affidavits of service filed on behalf of the petitioners are taken on record.
2. By the present writ petition, the petitioners seek for publication of the final results of Diploma in Elementary Education (*in short, 'D.El.Ed.'*) for the session 2023-2025 prior to the last date of the application of recruitment Notification dated 25th September, 2025 and also directing the respondent authorities to allow the petitioners to participate in the ongoing selection process in connection with the said recruitment notification.

3. Both the writ petitions are taken up together since the petitions have similarity of facts and prayers.
4. In the present writ petitions, some of the petitioners have qualified in TET 2014, some have qualified in TET 2022 and some in TET 2023, the details of which are re-produced in a tabular form as hereunder:

In WPA No.24180 of 2025:

Sl. No.	Name of Candidates	Year of TET Pass
1.	Madhusudan Adhya	2014
2.	ABU SAEED MOLLA	2022
3.	SOMA GHOSH	2022
4.	JANMENJOY MONDAL	2014
5.	RINKU DAS	2023
6.	AIJUDDIN SK.	2022
7.	PARTHA SARATHI SATH	2014
8.	RASHI ALAM	2014
9.	MINARUL ISLAM	2023
10.	MD. SADDIK ALAM	2014
11.	SK. SAMIM ALI	2014
12.	ABDUR RAHIM	2014
13.	CHAMPA MANDAL	2014
14.	TUMPA MANDAL	2014
15.	PARIMAL MANDAL	2014
16.	ANWAR HOSSAIN	2014
17.	BIPLAB KAR	2022
18.	SADEQUL SK.	2014
19.	AYESHA SIDDIKA	2022
20.	TANNISTJA DAS	2014
21.	SAHARBANU KHATUN	2023
22.	MD ASHIKUL ALAM	2022
23.	KAMRUN NAHAR	2022
24.	TANMAY BARIK	2014
25.	MD. ASIF ANOWAR	2023
26.	MD. IMAZUDDIN SK.	2022
27.	ALTAF HOSSAIN	2023
28.	MD. HUMAYAN KABIR	2022
29.	MST. RUNA LAILA	2022
30.	MD. ABUL KALAM AZAD	2022
31.	SAHINA PRAVIN	2022
32.	TUHINA SULTANA	2022
33.	RUPAK SARKAR	2022
34.	TIRTHA SARKAR	2022
35.	MAMPI GHOSH	2022
36.	MD. ABDUL HALIM	2022
37.	NASRIN NAHAR	2023
38.	RACHITA DUTTA	2022
39.	BRATATI CHATTERJEE	2022
40.	MOUSUMI DUBEY	2022
41.	AL MAMUN MONDAL	2014
42.	DILDAR HOSSAIN SK.	2023
43.	AVESHEK MANDAL	2014
44.	ALIUL SEKH	2023
45.	MOUMITA BISWAS	2022

46.	ATIOR RAHAMAN	2023
47.	SAHIN AHAMED	2023

In WPA No. 28014 of 2025:

Sl. No.	Name of Candidates	Year of TET Pass
1.	ANUP SARKAR	2023
2.	SUTANUKA GHOSH	2022
3.	SK SAMIM AHAMED	2023
4.	MURSALIM BISWAS	2022
5.	KAZAK SAIKH	2022
6.	RAJU MONDAL	2022
7.	ASMAUL HOSAIN	2022
8.	MD. NAZIM	2022
9.	NAHIT REZA	2022
10.	ASHARUK SK	2022
11.	MD SAHIN ANSARI	2014
12.	ANAMIKA MANDAL	2023
13.	RUPSHANARA KHATUN	2014
14.	AMIT DE	2022
15.	PROVASH GHOSH	2014
16.	SRIHARI DAS	2014
17.	MRINMOY BAG	2014
18.	SUBHASIS BISWAS	2022
19.	SUCHANDAN SARKAR	2022
20.	WASIM AKRAM	2023
21.	AVISHEK SATPATHI	2014
22.	BULTI CHAND	2014
23.	ZANNATUN FIZA	2022
24.	PARBAT MANDAL	2014
25.	G M MUZTABA ALMAUN	2014
26.	MOUSUMI GHOSH	2023
27.	DIPA BAIN	2014
28.	RITTIK LALA	2023
29.	MD NAZIM	2023
30.	MOTAHER ALI	2023
31.	AMIT MANDAL	2023
32.	JERIN AKHTER	2023
33.	YEAR MAHAMMAD SK	2023
34.	RAHUL MODAK	2023
35.	SAJAHAN ALI	2023
36.	MD ABDUL HALIM	2023
37.	KAMRUN NAHAR RUMI	2023
38.	SAMIM SAIKH	2023
39.	SALMA KHATUN	2023
40.	SUDIPTA MANDAL	2023
41.	KOUSHIM MONDAL	2023
42.	SAHANAJ PARVIN	2023
43.	SURAJ ALI	2023
44.	RUKSANA KHATUN	2023
45.	MASUD BISWAS	2023
46.	SUBHASIS BISWAS	2023
47.	KABYASHREE MISRA	2023
48.	RUMKI DAS	2023
49.	SOHIDUL SK	2023
50.	TARUN MAJI	2023
51.	MEHEDI HASAN	2023
52.	RASEL HAQUE	2023
53.	MIJANUR MOLLAH	2023
54.	SWAGATA CHAKRABARTY	2023
55.	SUJATA MONDAL	2023

56.	MD PARVEZ KARIM	2023
57.	SUBHRAJYOTI HALDER	2023
58.	ABDUL BARI MOLLA	2023
59.	SUDIP DUTTA	2023
60.	AFIFA ALAM	2023
61.	SWAPAN BISWAS	2023
62.	SWAPAN BISWAS	2023
63.	ATANU PAIK	2023
64.	MEHTAB HOSSAIN	2023
65.	TOTON ADHIKARI	2023
66.	ABBAS ALI	2023
67.	SANTU MANDAL	2023
68.	SK BASIRUL ALAM	2023
69.	SANGITA PAUL	2023
70.	WAHEDA KHATUN	2023
71.	OBAIDUR RAHAMAN	2023
72.	PRITAM BISWAS	2023
73.	IPTIYAR HOSSAIN	2023
74.	ARAFAT SAIKH MISTRI	2023
75.	ABDUL JABBAR	2023
76.	RIYA PAL	2023
77.	AMIR SOHEL	2023
78.	SAIF ALI	2023
79.	BIPLAB KAYAL	2023
80.	DEBI MANDAL	2023
81.	ALIUL SAIKH	2023
82.	SUDIPTA KARMAKAR	2023
83.	PRADIP NANDI	2023
84.	SALMA JAHAN	2023
85.	AYANTIKA DE	2023
86.	SOURAV DUTTA	2023
87.	SARMIN SULTANA	2023
88.	SUSMITA MONDAL	2023
89.	ASMAUL HOSSAIN	2023
90.	URMI MISTRY	2022
91.	ATANU SAU	2023
92.	UTTAM KUMBHAKAR	2023
93.	ABU HASNAT KHAN	2023
94.	JAYATI GHOSH	2023
95.	MD JULKARNINE SARKAR	2023
96.	ASIF SOHAIL	2023
97.	SWARNALI GHOSH	2023
98.	PAYEL SAHA	2023
99.	SABNAM MOSTARI BANU	2023
100.	MD SALIM	2023
101.	MD NURUDDIN	2023
102.	ABDUR RAHIM MOLLA	2023
103.	SABUJ RANA	2023
104.	SARIFUL ISLAM	2023
105.	SUBHANKAR HALDER	2023
106.	HAFEZA KHATUN	2023
107.	REBEKA SULTANA	2023
108.	MOJIBAR RAHAMAN	2023

5. The petitioners herein contend that all of them have completed the D.El.Ed course for the session 2023-2025 which is required for the ongoing recruitment process. However, since the results of the D.El.Ed course have

not been declared as yet, they are unable to participate in the recruitment process initiated vide Notification dated 25th September, 2025 read with Notification dated 19th November, 2025. Hence this writ petition.

6. Mr. Sudipta Dasgupta, learned advocate appearing for the petitioners, at the outset placing reliance on the Notification issued by the N.C.T.E. dated 9th June, 2021, submits that once a candidate qualifies the TET, it is valid for life, until and unless, it is revoked and/or cancelled by a competent authority. None of the certificates issued in favour of the petitioners by the authority concerned i.e. the West Bengal Board of Primary Education (*in short, 'the WBBPE'*) have been cancelled till date by the authority. The petitioners, who have qualified in TET 2014 as untrained candidates, in order to make them sufficiently trained, have taken admission in D.El.Ed courses as required by the subsequent notification of the N.C.T.E. The petitioners who have qualified TET 2022 and TET 2023 have also taken admission and completed the course of D.El.Ed and the results are awaited. Due to non-publication of the said results and arbitrary withholding of the same by the Board, the rights of the petitioners to at least participate in the recruitment process has been affected. He indicates that the decision of the Hon'ble Supreme Court in the case of ***Devesh Sharma versus. Union of India*** reported in ***(2023) 18 SCC 339*** does not cancel the TET certificates or the TET qualification granted to

the candidates. The notification of the N.C.T.E. dated 28th June, 2018 allowed the Graduates with at least 50% marks with Bachelor of Education (B.Ed.) Degree to apply for appointment to the post of Assistant Teacher of primary school. The candidates of TET 2022 during the subsistence of the said notification dated 28th June, 2018 has appeared in TET 2022 and has been declared qualified. The petitioners who have appeared in TET 2023 have appeared as pursuing candidates of D.El.Ed course as per the guidelines of the N.C.T.E and they have successfully qualified. Thus, once the petitioners have qualified in the TET examination conducted by the Board, the same is cannot be revoked and cancelled or arbitrarily withdrawn. The Board has not taken any steps for revocation and/or cancellation and, therefore, is debarred from challenging its own action. Thus, the qualification and certificates of TET 2014, TET 2022, and TET 2023 of the petitioners are valid till date. The petitioners herein seek for publication of the final results of the D.El.Ed course for the session 2023-2025, so that they get the opportunity to take part in the ongoing recruitment process. As per the Norms and Standards of D.El.Ed, the duration of the D.El.Ed. Programme shall be of two academic years. The release notice dated 30th June, 2025 goes to show that the academic year has ended on 30th June, 2025. The Board ought to have published the results within the academic year. Hence, as per the duration as stipulated in the

Norms and Standards the Board is statutorily bound to publish the results. In the light of his aforesaid submissions, he prays for specific direction upon the authority concerned to publish the results of D.El.Ed course 2023-2025 and also to allow the petitioners to participate in the ongoing recruitment process.

7. On the contrary, Mr. Ratul Biswas, learned advocate appearing for the WBBPE submits at the very beginning that in the instant writ petition the cause of action is jumbled up, one upon other, inasmuch as the cause of action of one set of petitioners is distinct and different from each other. Therefore, on such score, the writ petition is not at all maintainable. He also submits that the candidates who appeared in TET-2023 appeared as pursuing candidates of D.El.Ed Course. However, from the records it will be evident that the admission notification to D.El.Ed Course has been issued on 17th August, 2023 which has been extended till 8th October, 2023. By a notification dated 8th November, 2023 merit list was directed to be published by the institutions. The TET-2023 has been notified on 13th September, 2023 which makes it clear that on the date of notification for conducting TET 2023 i.e. 13th September, 2023 there was no occasion for the petitioners to pursue D.El.Ed Course since the admission was not complete. Further, none of the petitioners have passed the D.El.Ed course and, therefore, they are the pursuing candidates. In *Devesh*

Sharma (supra), the notification of NCTE dated 28th June, 2018 has been set aside striking down B.Ed. as requisite qualification. Therefore, the petitioners, who appeared in TET 2022 with B.Ed. qualification, are not eligible. As per the notification/advertisement for recruitment, the candidates who have passed the course on the date of advertisement are eligible. Therefore, the petitioners are also lacking on such score. He further indicates that at the time of TET Examination, the certificates are not verified and from the instruction in the TET certificate, it will be evident that the eligibility of the candidates appearing in the TET has not been verified by the Board and the particulars of the candidates and subjects are mentioned as per declaration of the candidates in the application form. The appointing authority has the right to verify the same before appointment. Therefore, the certificates issued of TET qualification are subject to scrutiny and verification by the Board. He informs the Court that the final examination of D.El.Ed has been completed only on 15th November, 2025 and will be published within a reasonable time frame. He informs the Court in similarly circumstanced candidates, this Hon'ble Court in *Raju Hens & Ors. versus The State of West Bengal & Ors. (Re: WPA No.26965 of 2025)* has dismissed the writ petition. He seeks for dismissal of the writ petition. He seeks for dismissal of the writ petition.

8. Mr. Sudipta Dasgupta, learned advocate appearing for the petitioners indicates that pursuant notification dated 17th August, 2023 issued by the Board for online admission to Two-Year D.El.Ed course (Regular) for the Session 2023-25 in the institutes recognised by NCTE and affiliated to West Bengal Board of Primary Education the petitioners have taken admission. Thus, the petitioners cannot be said to be not pursuing candidates on the date of advertisement of TET-2023 on 13th September, 2023. He also indicates that until and unless the petitioners are allowed to submit their application in respect of the recruitment process, the stage would never arise regarding scrutiny and verification of their certificates. Accordingly, the petitioners in the writ petition have made an innocuous prayer for allowing them to participate in the selection process and also for publication of the results.
9. Upon hearing learned Advocates for the respective parties, following issues have fallen for consideration:
 - i) 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?
 - ii) Whether the petitioners who have qualified in TET 2014, TET 2022, TET 2023 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?

- 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?

**Issue No.1: 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?**

10. Mr. Dasgupta, 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 a
specified period extending the last date, it will definitely
make the petitioners eligible to participate in the
ongoing recruitment process.

10.1. Mr. Biswas, learned 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.

10.2. 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.”

10.3. 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.

10.4. 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)”

10.5. 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. Biswas, learned Advocate 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."

10.6. 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.

10.7. 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.2: Whether the petitioners who have qualified in TET 2014, TET 2022, TET 2023 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?

11. Admittedly, some of the petitioners before this Court have passed TET, 2022 with B.Ed. qualification.

11.1. 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)"

11.2. 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)***.

11.3. 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.

11.4. 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 Haldar & 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.”

11.5. 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)*.

11.6. 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."

11.7. 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.

11.8. 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.

11.9. 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)*, where the petitioners therein 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.”*

11.10. With regard to TET 2023, admittedly, some of the petitioners appeared in TET 2023 as pursuing candidates and are qualified. Upon hearing the learned advocates for the respective parties, it is to be examined as to whether the petitioners were pursuing their D.EL.ED Course on the date of advertisement of TET-2023 on 13th September, 2023 or not.

11.11. The guidelines for conducting Teachers Eligibility Test (TET) of the NCTE in Clause 5 provides as hereunder:

“5. The following persons shall be eligible for appearing in the TET:

- I. A person who has acquired the academic and professional qualifications specified in the NCTE Notification dated 23rd August, 2010.*
- II. A person who is pursuing any of the teacher education courses (recognized by the NCTE or the RCI, as the case may be) specified in the NCTE Notification dated 23rd August, 2010.*
- III. The eligibility condition for appearing in TET may be relaxed in respect of a State/UT which has been granted relaxation under sub-section (2) of section 23 of the RTE Act. The relaxation will be specified in the*

Notification issued by the Central Government under that sub-section."

11.12. In the decision of the Hon'ble Supreme Court passed in the case of **Omkar Singh & Ors. vs. State of Uttar Pradesh** reported in **(2021) 14 SCC 486**, it would be axiomatic to reproduce specific observations of the Hon'ble Apex Court which stands as follows:

"7.1. The issue involved in the present appeals is the meaning and interpretation of the word "pursuing" as appearing in Clause 5(ii) of the NCTE Guidelines. The question for consideration is the eligibility criteria to appear d in TET examination. It is apparent from the reading of the guidelines framed by NCTE, Para 5 that the incumbents who have acquired the qualification academic as well as professional can apply for TET examination. The second category of candidates who can apply for TET examination is those who are "pursuing" any teacher training course ("TTC"). The meaning of "pursuing" is a person who is undergoing any of the teacher training course ("TTC"). He/she must have been admitted and pursuing the teacher training course which is prescribed as a qualification. Declaration of the result, appearing in the examination or date of filling up of the forms, etc. cannot be the criteria to appear in TET examination. Therefore, a candidate who is undergoing i.e. "pursuing the requisite teacher training course ("TTC") shall be eligible to appear in TET examination.

7.2. The learned Single Judge of the High Court held and concluded that: (Prabhat Kumar Verma case, SCC OnLine All para 4)

4. ... 'only those persons, who are in the final year of their teacher training course ("TTC"), alone would be entitled to appear in TET examination.' "

The Division Bench of the High Court has gone further and has observed that only such candidates, whose teacher training course result has not been declared by the last date specified for filling up the online form for TET examination can be said to be "pursuing" the teacher training course as mentioned in clause 5(ii) of the NCTE Guidelines and could appear in TET examination. Therefore, according to the Division Bench of the High Court, as on the last date specified for filling up the online form for TET examination, the candidates must have appeared in the examination (of TTC) and the result has not been declared. These riders are not proper given the clear language used in clause 5(ii) of the NCTE Guidelines. The Division Bench of the High Court has read into and/or added something more than what is provided in clause 5(ii) of the NCTE Guidelines. The language used in clause 5(ii) of the NCTE Guidelines is simple, clear and unambiguous. As per the cardinal principle of the rule of interpretation, while construing a particular provision, the particular

provision is required to be read as it is and nothing is to be added or taken away.

7.3. *Looking to the clear wordings in clause 5(ii) of the NCTE Guidelines and the phrase used is "pursuing", the High Court is not justified in adding the additional riders, such as, that to become eligible for appearing in TET examination, a candidate must have appeared in the TTC examination and the result have not been declared by the last date specified for filling up the online form for TET examination. As per the dictionary meaning, the word "pursuing" means undergoing and/or proceeding further. Therefore, a candidate who has been admitted in any of the TTC and undergoing the teacher training course ("TTC") can be said to be "pursuing" such teacher training course and shall be eligible to appear in TET examination, irrespective of the fact that whether, by the last date specified for filling up the online form for TET examination, he has, in fact, appeared in the examination of the teacher d training course concerned and the result is awaited. "Pursuing" the requisite teacher training course is sufficient to make such a candidate eligible to appear in TET examination. Therefore, on a fair reading of clause 5(if) of the NCTE Guidelines, a person who has been admitted in TTC and is pursuing, he/she can appear in TET examination. In the present case, admittedly, on the cut-off date, all the candidates were pursuing the teacher training course concerned. Thereafter, all of them have cleared TET examination as well as have cleared the teacher training course concerned. At the time when they were appointed as Assistant Teachers, all of them fulfilled the eligibility criteria for appointment as Assistant Teachers. All of them have passed TET examination and have also passed the TTC as per the requisite eligibility criteria. Thus, in our view, ousting certain incumbents by the High Court cannot be sustained since they f were pursuing TTC and they were clearly eligible to appear in TET examination and have passed it while pursuing the requisite professional qualification for being eligible to be appointed as Assistant Teachers."*

11.13. From the guidelines as well as the aforesaid proposition of the Hon'ble Supreme Court it manifests that a pursuing candidate of any of the approved Teachers Education Courses has been made eligible to appear for TET Examination.

11.14. The petitioners contend that soon after the notification issued for admission to D.El.Ed Course on 17th August, 2023 they have taken admission and on

the date of advertisement of TET 2023 on 13th September, 2023 they were pursuing the said course.

11.15. There is no dispute to the fact that these petitioners have appeared in the TET, 2023 as candidates pursuing the D.El.Ed. course for the session 2023-2025. The date for admission to the D.El.Ed. course of 2023-2025 was notified on 17th August, 2023. It is informed by the learned Advocates for the respective parties that the last date for filling up of application forms for admission to the D.El.Ed. course of 2023-2025 was extended from time to time till 8th October, 2023. The mode and manner and procedure has been laid down by the WBBPE in its notification No.176/WBBPE/D.El.Ed./2023 dated 17th August, 2023 which is reproduced hereunder for convenience of discussion:

“8. Procedure for processing the applications:

- i. *The filled in admission forms will have to be submitted to the listed institutes, selected by the applicants medium wise.*
- ii. *Thereafter, the forms will automatically be transferred to the login of the institutes.*
- iii. *All the institutes shall have secret log-in and password, provided by the Board, for access online to the submitted forms.*
- iv. *The Heads of the Institutes will, then, verify and scrutinize the particulars submitted by the candidates.*
- v. *They will validate or invalidate the applications online through such scrutiny and verification.*
- vi. *Next, they will transfer online admission forms to the Board.*
- vii. *The Board will prepare the merit lists digitally, placing all the valid applications in order of merit.*
- viii. *Thereafter, the Board will forward the approved merit lists to the respective Institutes for admission.*
- ix. *The Institutes will intimate the selected candidates from the approved merit lists serially through WhatsApp/email and also inform them of subsequent steps to be notified by the Board.”*

11.16. By notification No.292/WBBPE/D.El.Ed./2023 dated 8th November, 2023, it was notified by the Board for all

concerned that the merit lists of the candidates applied for admission in the Two Year D.El.Ed. course, Session 2023-2025 are being forwarded to the institute log-in for use of the institutes along with necessary guidelines. All the heads of the D.El.Ed. institutes are instructed to take appropriate measures for admission of the candidates in the session 2023-2025 in strict maintenance of the enclosed guidelines. The date of advertisement of TET, 2023 was made on 13th September, 2023. The petitioners claim that prior to such date that is 13th September, 2023 they took admission for D.El.Ed. course. As per the notification No.177/WBBPE/D.El.Ed./2023 dated 17th August, 2023 the Board is to prepare and approve the merit lists digitally and forward the same to the dedicated log-in of the institute which has been done by the Board on 8th November, 2023. Therefore, the merit lists being approved on 8th November, 2023 any admission in the institute in the earlier point of time cannot be said to be regular with approval of the Board. Therefore, the declaration of the petitioners in their applications for appearing in TET, 2023 as pursuing candidates of D.El.Ed. course of 2023-2025 was incorrect. Therefore, on the date of advertisement that is 13th September, 2023 the petitioners did not qualify to appear in TET, 2023. Accordingly, even if the petitioners have succeeded in TET, 2023 it would have hardly in

consequence since it is borne out of misrepresentation and incorrect statement in the application.

11.17. The chronology of the dates enumerated above shows that the petitioners who appeared in TET-2023 were found to be not pursuing such D.El.Ed course on the date of advertisement. Such being the position the TET qualification of 2023 of the petitioners cannot be considered as eligible to take part in the ongoing recruitment process.

11.18. With regard to TET 2014, it is not in dispute that they are untrained candidates and hence they do not meet the requirement of the recruitment process.

11.19. In view of the above discussions and since none of the petitioners have passed D.El.Ed course on the date of advertisement for recruitment they are ineligible to participate in ongoing recruitment process.

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?

12. 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.

- 12.1. 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.
13. With the aforesaid observations, the writ petitions being **WPA No. 24180 of 2025** and **WPA 28014 of 2025** stand dismissed.
14. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
15. Interim order, if any, stands vacated.
16. All connected applications, if any, stand disposed of.
17. There shall be no order as to costs.
18. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
19. 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.)