HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 16588 of 2026

Mahesh Kumar & 18 Others

.....Petitioner(s)

Versus

State of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s) : Rahul Mishra, Saurabh Kumar Bhargava
Counsel for Respondent(s) : C.S.C., Kushmondeya Shahi

Court No. - 6

HON'BLE VINOD DIWAKAR, J.

1. Heard learned counsel for the petitioner, Shri Kushmondeya Shahi, learned counsel for the respondent nos. 5 and 6, learned Standing Counsel for the State respondents.

2. The case of the petitioners is that they hold the four-year degree of Bachelor of Elementary Education, and have also qualified in the Teacher Eligibility Test and the Central Teacher Eligibility Test, which together constitute the basic qualification for appointment as an Assistant Teacher at the primary level.

3. The Uttar Pradesh Education Service Selection Commission, Prayagraj, issued Advertisement No. 5 of 2026 on 15.09.2026, inviting online applications for selection against 11,508 vacant posts of Assistant Teacher in urban areas, and 897 posts of Assistant Teacher in affiliated primary schools for boys and girls, being non-government aided Intermediate Institution falling under the U.P. Intermediate Education Act.

4. Under Clause 2.5 of the said advertisement, the essential qualifications prescribed for selection as an Assistant Teacher in both categories of schools are identical, save for the two-year Diploma in Special Education approved by the Rehabilitation Council of India and the four-year Bachelor of Elementary Education degree, which have been made admissible only in respect of the posts in urban areas under Clause 7.1.

5. The principal contention of learned counsel for the petitioners is that respondent nos. 3 and 6 have erroneously excluded candidates holding the two-year Diploma in Special Education and the four-year Bachelor of Elementary Education degree, from consideration for appointment as

Assistant Teacher in affiliated primary schools for boys and girls, being non-government aided Intermediate Institution falling under the U.P. Intermediate Education Act.

6. It is contended that the action aforesaid is in derogation of the notification dated 23.08.2010 issued by the National Council for Teacher Education, which prescribes, as one of the minimum qualifications for appointment as an Assistant Teacher for Classes I to V, Senior Secondary education or its equivalent with not less than 50 per cent marks, together with the four-year Bachelor of Elementary Education degree.

6.1 It is further contended that, by reason of the action of the State, candidates who are similarly situated will be deprived of the opportunity to apply against the 897 posts of Assistant Teacher in affiliated primary non-government aided schools.

6.2 It is submitted that the provisions of the National Council for Teacher Education (Amendment) Act, 2011 are mandatory in character in the matter of appointment of Assistant Teachers in pre-primary, primary, upper primary, secondary, senior secondary and intermediate educational institutions.

6.3 It is next submitted that the nature of the duties and the emoluments attached to the posts in both categories of schools are the same, and that there is accordingly no plausible justification for prescribing different qualifications for posts of the same description.

6.4 It is also contended that the proposed amendment dated 11.09.2026, as well as the existing desirable qualification contained in Appendix A(3) relating to other teachers, read with Regulation 1 and Regulation 7(1)(A) of Chapter II of the Act of 1921, has been issued in derogation of the National Council for Teacher Education Act.

6.5 Upon a conjoint reading of Section 12(d) and (e) and Section 12-A of the said Act, it is submitted that it is the National Council for Teacher Education, a body constituted by Central legislation, which is empowered to determine the essential educational qualifications for appointment as an Assistant Teacher in a primary school, whether situate in an urban area or a non-government aided primary school managed by the Basic Shiksha Parishad or Madhyamic Shiksha Parishad.

7. Learned counsel appearing for the Basic Shiksha Adhikari and for the Secretary, Madhyamik Shiksha Parishad, Prayagraj, have offered no comments in answer to the contentions raised on behalf of the petitioners.

8. Having heard learned counsel for the petitioners and learned counsel appearing for the Secretary, Madhyamik Shiksha Parishad, and the Director of Education (Secondary), and upon a perusal of the record, this Court finds that the notifications dated 11.09.2026, issued respectively by the Secretary, Madhyamik Shiksha Parishad, Prayagraj, and the Director of Education (Secondary), Uttar Pradesh, Lucknow — the former having been published in the Official Gazette on 12.09.2026 — do not conform to the requirements of the National Council for Teacher Education Act and the notification dated 23.08.2010 issued thereunder. The said notifications are accordingly quashed to the extent indicated hereinabove.

9. The petition is ***allowed***. Respondent nos. 3, 5 and 6 are directed to issue the necessary corrigendum to Advertisement No. 5 of 2026 published on 15.09.2026, so as to enable candidates holding the two-year Diploma in Special Education and the four-year Bachelor of Elementary Education degree, to apply against the 897 posts aforesaid. The corrigendum shall be issued forthwith, and the petitioners and other similarly placed candidates shall be afforded a reasonable opportunity to submit their applications.

10. The candidates shall be given sufficient time to apply for the post of Assistant Teacher in view of the terms of this order, if need be, the last date of submitting the online form may be extended by a week or so.

11. Registrar (Compliance) is directed to transmit a copy of this order to the respondent nos. 3, 5 and 6 for necessary compliance.

October 24, 2026
A. Tripathi

(Vinod Diwakar,J.)

Digitally signed by :-
AKHILESH TRIPATHI
High Court of Judicature at Allahabad