REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) Nos.....of 2024
ARISING OUT OF DIARY No. 17948 OF 2024

NAVIN KUMAR & ORS. ...PETITIONERS

Versus

UNION OF INDIA & ORS. ETC. ...RESPONDENTS

WITH

SPECIAL LEAVE PETITION (C) NO. 10295 OF 2024

WITH

SPECIAL LEAVE PETITION (C) NO(s). OF 2024
(ARISING OUT OF DIARY NO.20149 OF 2024)

WITH

SPECIAL LEAVE PETITION (C) NO(s). OF 2024
(ARISING OUT OF DIARY NO.20848 OF 2024)

WITH

SPECIAL LEAVE PETITION (C) NO. 13756 OF 2024

WITH

SPECIAL LEAVE PETITION (C) NO(s). OF 2024
(ARISING OUT OF DIARY NO.36283 OF 2024)

WITH

SPECIAL LEAVE PETITION (C) NO(s). OF 2024
(ARISING OUT OF DIARY NO.37276 OF 2024)

O R D E R

1. In ***Devesh Sharma v. Union of India***[1] (delivered on 11.08.2023), there was before us a challenge to the judgement of the Rajasthan High Court dated 25.11.2021 where it was held that for appointment of primary school teachers (i.e., teachers of Class I to Class V), the essential qualification is D.El.Ed. (i.e., Diploma in Elementary Education) and not B.Ed. (i.e., Bachelor in Education), and B.Ed. qualified candidates were held to be disqualified.

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

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1 2023 INSC 704

therein, by which B.Ed was made a qualification, were quashed and set aside.

3. The above judgment of ***Devesh Sharma*** (supra) was delivered on 11.08.2023 and thereafter review applications, clarifications, etc. kept coming up, mainly from such candidates who were having B.Ed. qualification and were selected and appointed by different States in the recent selection process for primary school teachers. We had heard all such applicants at length and clarified that such B.Ed. qualified candidates who were selected and appointed prior to our decision in ***Devesh Sharma (supra)*** i.e. prior to 11.08.2023, shall not be disturbed as there was a special equity in their favour. Therefore, our judgement would be prospective in nature, and will not disturb the appointments of such candidates who had already been appointed prior to the judgment in ***Devesh Sharma (supra***) i.e. prior to 11.08.2023. This is what was clarified in our order dated 08.04.2024:

> As it appears that a large number of candidates with B.Ed. 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.
>
> ...
>
> We also make it clear that the directions contained in this order shall not be confined to the applicant state only and shall cover all cases which may be pending in different judicial fora in any State or Union territory on the same point of law.
>
> (emphasis supplied)

After our clarifications, on 08.04.2024, there should not have remained any doubts, yet clarification and review applications, kept coming up in one form or the other which were all dismissed. Now, in the present batch of petitions, the same question has again come up before this Court, this time arising out of a judgment of Chhattisgarh High Court,

which has only been passed following our order in ***Devesh Sharma (supra)***.

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

5. Admittedly in the present case, the appointment orders in favour of the B.Ed candidates were issued in September 2023 by the State of Chhattisgarh, that is after the date of our judgement in ***Devesh Sharma (supra)*** which was delivered on 11.08.2023. We have already held in our order dated 08.04.2024 that such candidates cannot be given any relief.

6. Before the Chhattisgarh High Court, petitions were filed by candidates holding Diploma in Elementary Education, challenging the eligibility of B.Ed. candidates on the grounds that they were not entitled to be appointed as primary school teachers. In their defence the B.Ed. candidates had argued that B.Ed. is one of the qualifications for appointment of elementary school teachers under the applicable Rules i.e., Chhattisgarh School Education Services (Educational and

Administrative Cadre) Recruitment and Promotion Rules, 2019 (**"2019 Rules"**), and thus, they have the necessary qualification.

7. All the same, apprised of the order of this Court in ***Devesh Sharma (supra)***, the Division Bench of Chhattisgarh High Court had passed an interim order on 21.08.2023 whereby the recruitment process was directed to be kept in abeyance as regards B.Ed. candidates. This is what was said:

> Considering the arguments advanced by learned counsel for the parties and also considering the law laid down by the Apex Court on the issue in question passed in Civil Appeal No. 5068 of 2023 (Devesh Sharma Vs. Union of India & Others decided on 11.08.2023), the further recruitment process with regard to the candidates having B.Ed. qualification for the post of Assistant Teachers shall be kept in abeyance with immediate effect and further no final decision would be taken by the respondents in respect of such candidates till the next date of hearing.

8. This interim order of High Court was then challenged by B.Ed. candidates before this Court, where a Division Bench of this Court passed the following order dated 29.08.2023:

> In the meantime, taking into consideration that the recruitment process which was in progress, is now interrupted by the ad-interim order dated 21.08.2023 and the aspect ultimately to be considered by the High Court is with regard to the manner in which the judgment in C.A. No. 5068 of

> 2023 passed by this Court is to be construed, at this stage interrupting the recruitment process would not be justified.
>
> Therefore, to the said extent, we hereby stay the order dated 21.08.2023 passed by the High Court and clarify that the recruitment process, which was in progress prior to the date of the said interim order passed by the High Court, shall continue and the appointments, if any, made thereunder will however remain subject to result of the consideration to be made by the High Court in W.P.S No. 5788 of 2023. The selected candidates shall be informed of the same by the Appointing Authority concerned.
>
> (emphasis supplied)

9. The above order of this Court has clarified that the selection and appointment of B.Ed. candidates would be subject to the final decision of the High Court in the writ petition. Later, when they were given appointments, their Appointment Order also clearly states that this appointment is subject to the decision of Chhattisgarh High Court in the pending writ petition. Ultimately, the petitions filed by the Diploma holders (in Elementary Education) were allowed vide the impugned judgement and the logical consequence of this is that the service of teachers, with B.Ed. qualification, are liable to be terminated. In the present batch of petitions, we have before us these teachers with B.Ed. qualification whose

appointments have been quashed. The State of Chhattisgarh is also before us challenging the impugned judgement and order dated 02.04.2024 of the High Court.

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

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

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

11.08.2023 in ***Devesh Sharma (supra)***. Since the petitioners in the present case were appointed post 11.08.2023 and their appointments were also subjected to the final outcome of the pending writ petition before High Court, they cannot get any benefit. The completion of the selection process prior to 11.08.2023 is not material. What is important is the date of appointment which is certainly after the cut-off date. They will stand disqualified, as they do not have the essential qualification for appointment as primary school teachers.

11. We have also gone through the 2019 Rules of Chhattisgarh. In Rule 8 (II), the qualification of an Assistant Teacher reads as under: -

> **"Rule 8 (II): Educational qualifications and experience –** The candidate must possess the educational qualifications and experience as prescribed for the service as shown in column (5) of Schedule III. For Preliminary education, the prescribed qualification will be applicable as per provisions of the Right to Free and Compulsory Education Act, 2009."

Column 5 of Schedule III provides that the minimum educational qualifications required for the post of teachers shall be as per Annexure I of the Rules. This Annexure

prescribes the minimum qualification for Assistant Teacher as follows:

> "a) Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education by whatever name known)
>
> OR
>
> Senior Secondary (or its equivalent) with at least 45% marks and 2-year Diploma in Elementary Education (by whatever name known) in accordance with the NCTE (Recognition Norms and Procedure) Regulations, 2002
>
> OR
>
> Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (B.EL.Ed.)
>
> OR
>
> Senior Secondary (or its equivalent) with at least 5o % marks and 2-year Diploma in Education (Special Education)
>
> OR
>
> Graduation and 2-year Diploma in Elementary Education (by whatever name known)
>
> OR
>
> Graduation with at least 50% marks and B.Ed. qualification (graduate from the institution recognised from NCTE) shall also be eligible for appointment as teacher for classes 1 to 5. Provided he / she undergoes, after appointment, a NCTE recognised 6-month special programme in Elementary Education.
>
> And
>
> (b) Passed the Teacher Eligibility Test (TET), to be conducted by the appropriate Government, in accordance with the guidelines framed by NCTE for this purpose."

(emphasis supplied)

The entire reliance of the petitioner is on the above provisions. We have already seen that Rule 8(II) while prescribing the qualifications of Assistant Teacher makes a reference to the qualifications as given under the Right to Education Act, 2009. Not only this, the aforesaid provision placing B.Ed. as a qualification is again subsequent to the Notification of NCTE dated 28.06.2018, which has already been quashed and set aside by our judgement in ***Devesh Sharma (supra)***. Therefore, by implication, qualification given in the Chhattisgarh Rules to the extent it makes B.Ed. a qualification also cannot be implemented, following the law laid down in ***Devesh Sharma (supra).***

12. In fact, we have been shown today an order of NCTE dated 04.09.2023 whereby the judgement in ***Devesh Sharma (supra)*** was communicated to Chief Secretaries of all State Governments for further appropriate action. In spite of this, appointments were given to B.Ed. candidates which was illegal and has now rightly been quashed, by the Chhattisgarh High Court.

13. In view of the above, we see no reason to interfere with the impugned judgement passed by the Chhattisgarh High Court.

14. Accordingly, all the Special Leave Petitions are hereby dismissed.

Pending application(s), if any, shall stand disposed of.

.....J.
(SUDHANSHU DHULIA)

.....J.
(PANKAJ MITHAL)

New Delhi
August 28, 2024

ITEM NO.8+10+11 COURT NO.16 SECTION IV-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) No(s)_____ of 2024
@ Dy. No. 17948/2024

(Arising out of impugned final judgment and order dated 02-04-2024 in WPS No. 3541/2023 02-04-2024 in WPS No. 5788/2023 02-04-2024 in WPS No. 7344/2023 passed by the High Court of Chhatisgarh at Bilaspur)

NAVIN KUMAR & ORS. Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)
(IA No. 106363/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 120868/2024 - EXEMPTION FROM FILING O.T.
IA No. 106365/2024 - EXEMPTION FROM FILING O.T.
IA No. 137270/2024 - INTERVENTION APPLICATION
IA No. 132705/2024 - INTERVENTION APPLICATION
IA No. 116249/2024 - INTERVENTION/IMPLEADMENT
IA No. 116243/2024 - INTERVENTION/IMPLEADMENT
IA No. 120865/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/ FACTS/ANNEXURES
IA No. 106366/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/ FACTS/ANNEXURES
IA No. 106361/2024 - PERMISSION TO FILE PETITION (SLP/TP/WP/..))

WITH
SLP(C) No. 10295/2024 (IV-C)
(IA No. 106706/2024 - EXEMPTION FROM FILING O.T.
IA No. 106704/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/ FACTS/ANNEXURES)

SPECIAL LEAVE PETITION (CIVIL) No(s)_____ of 2024 @ Diary No(s). 20149/2024 (IV-C)
(IA No. 112664/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 112663/2024 - PERMISSION TO FILE PETITION (SLP/TP/WP/..))

SPECIAL LEAVE PETITION (CIVIL) No(s)_____ of 2024 @ Diary No(s). 20848/2024 (IV-C)
(IA No. 112881/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 112882/2024 - EXEMPTION FROM FILING O.T.
IA No. 112880/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES
IA No. 112879/2024 - PERMISSION TO FILE PETITION (SLP/TP/WP/..))

SLP(C) No. 13756/2024 (IV-C)
(FOR ADMISSION and IA No.138946/2024-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SPECIAL LEAVE PETITION (CIVIL) No(s)_____ of 2024 @ Dy. No. 36283/2024(ITEM NO. 10)

(IA No. 191178/2024 - CONDONATION OF DELAY IN FILING
IA No. 191179/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 191180/2024 - EXEMPTION FROM FILING O.T.
IA No. 191181/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES
IA No. 191177/2024 - PERMISSION TO FILE PETITION (SLP/TP/WP/..))

SPECIAL LEAVE PETITION (CIVIL) No(s)_____ of 2024 @ Dy. No. 37276/2024(ITEM NO. 11)

(IA No. 191017/2024 - CONDONATION OF DELAY IN FILING
IA No. 191019/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 191021/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/ FACTS/ANNEXURES)

Date : 28-08-2024 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SUDHANSHU DHULIA
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. Apoorv Kurup, A.A.G.
Mr. K.M. Natraj, A.S.G.
Mr. Arjun D Singh, Adv.
Ms. Ankita Sharma, AOR

Mr. Amit Anand Tiwari, Sr. Adv.
Mr. Arjun Garg, AOR
Mr. Aakash Nandolia, Adv.
Ms. Kriti Gupta, Adv.

Mr. Sanjay Hegde, Sr. Adv.
Mr. Shashank Shekhar Jha, Adv.
Ms. Priyanka Thakur, Adv.
Mr. Subhash Chandra Jha, Adv.

Mr. Archit Kaushik, Adv.
Mr. Vishhal Saxxenaa, Adv.
Mr. Pramod Kumar Tripathy, Adv.
Ms. Erika Yagnik, Adv.
Mr. Diva Kant, Adv.
Mr. Anil Kumar, AOR

Mr. Ravindra Shrivastava, Sr. Adv.
Mr. Abhijeet Shrivastava, AOR
Ms. Naushina Afrin Ali, Adv.
Mr. Anshuman Shrivastava, Adv.
Mr. Abhishek Sharma, Adv.
Mr. Aniket Singh Das, Adv.
Ms. Devangna Singh, Adv.
Ms. Sanya Shukla, Adv.
Ms. Krati Dubey, Adv.
Mr. Ieeshan Sharma, Adv.
Ms. Rhea Rao, Adv.
Ms. Selina Raj Mevati, Adv.

Mr. Abhishek Manu Singhvi, Sr. Adv.
Mr. P S Patwalia, Adv.
Mr. Amit Pawan, AOR
Mr. Hassan Zubair Waris, Adv.
Mr. Suchit Rawat, Adv.
Mr. Abhishek Amritanshu, Adv.
Ms. Aastha Shreshta, Adv.

Mr. Ranjit Kumar, Sr. Adv.
Mr. Amit Pawan, AOR
Mr. Hassan Zubair Waris, Adv.
Mr. Suchit Rawat, Adv.
Ms. Aastha Sherstha, Adv.

For Respondent(s) Mr. Gopal Sankaranarayanan, Sr. Adv.
Ms. Meenakshi Arora, Sr. Adv.
Mr. Mandeep Kalra, AOR
Ms. Anushna Satapathy, Adv.
Ms. Chitrangada Singh, Adv.
Mr. Yashas J, Adv.
Mr. Vishal Sinha, Adv.
Mr. Chandratanay Chaube, Adv.

Mr. K.M. Natraj, A.S.G.
Mr. Apoorv Kurup, A.A.G.
Ms. Ankita Sharma, AOR
Mr. Arjun D Singh, Adv.

Mr. Amit Pawan, AOR

Mr. Rishi K Awasthi, Adv.

Mr. Piyush Vatsa, Adv.
Mr. Rahul Kumar Gupta, Adv.
Mr. Punit Vinay, AOR
Mr. Rahul Raj Mishra, Adv.
Mr. Avinash Ankit, Adv.
Mr. Manoj Kumar, Adv.

Mr. U.K. Uniyal, Sr. Adv.
Mr. D. K. Garg, Adv.
Mr. Abhishek Garg, Adv.
Mr. Dhananjay Garg, AOR

Mr. Akshat Srivastava, AOR

Mr. Gopal Sankaranarayanan, Sr. Adv.
Ms. Meenakshi Arora, Sr. Adv.
Mr. Mandeep Kalra, AOR
Ms. Anushna Satapathy, Adv.
Ms. Chitrangada Singh, Adv.
Mr. Yashas J, Adv.
Mr. Vishal Sinha, Adv.
Mr. Chandratanay Chaube, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Delay condoned.

Permission to file special leave petitions are granted.

Heard learned learned ASG/senior counsel for the petitioner(s) as well as learned senior counsel for the respondent(s) at length.

The special leave petitions are dismissed in terms of signed reportable order.

Pending application(s), if any, shall stand disposed of.

(NEETA SAPRA)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
COURT MASTER (NSH)

(Signed reportable order is placed on the file)