
(2016) 08 UK CK 0006

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1093 of 2016

Alok Parmar

APPELLANT

Vs

State of Uttarakhand

RESPONDENT

Date of Decision : 10-08-2016

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226

Citation : (2016) LIC 3991

Hon'ble Judges : Sudhanshu Dhulia, J.

Bench : Single Bench

Advocate : Mr. Vinay Kumar, Mr. C.K. Sharma and Mr. C.S. Kargeti, Advocates, for the Petitioners; Mr. V.B.S. Negi, Advocate General assisted by Mr. A.K. Joshi, Additional C.S.C, for the State of Uttarakhand; Mr. Manoj Tiwari, Senior Advocate assisted by Mr. Alok Meh

Final Decision : Allowed

Judgement

Sudhanshu Dhulia, J.(Oral)—In both the above writ petitions, the challenge made by the petitioners is to a new class of teachers created by the government, allegedly de hors the rules and regulations and the service conditions of teachers in Government Schools. This special category or class of teachers is given the nomenclature of "Guest Teachers". Occasionally, these Guest Teachers have also been referred in Government Orders as "Visiting Teachers", but it means the same. Such teachers were initially appointed to teach in Government Secondary as well as Intermediate Schools on short term vacancies, but during the course of time, they have also started teaching in regular substantive vacancies as well.

2. The petitioners before this Court who have challenged this entire method of appointment claim that they are the ones who are fully qualified for appointed as Assistant Teacher (L.T. Grade), but as the substantive posts are being occupied by these guest teachers, no appointment can be made on these posts. In other words, as per the petitioners a back door mechanism of inducting "Guest

Teachers", is in force in State of Uttarakhand, which is adversely affecting their chances of employment in Government service. The last advertisement was issued by the Government for appointment of Assistant Teachers (L.T. Grade) in Government Schools was on 24.02.2014 and the process continued till 2016. Between this period vacancies were neither advertised nor any recourse to a regular selection made by the Government. Instead the Government devised a new and innovative mechanism known as "Guest Teachers", by which it started making appointments on the post of Assistant Teachers (L.T. Grade), as well as on the post of Lecturers, through a back-door mechanism, on a plea that this is being done for the welfare of the student community. The proclaimed purpose of the Scheme indeed was that it is being done in the interest of students, as casual vacancies keep coming in schools due to illness, maternity leave, child care leave, etc. which must be occupied immediately, as prolonged absence of teachers adversely affects studies in these schools. The contention of the petitioners on the other hand is that this is a clear violation of Article 14 and 16 of the Constitution of India, apart from the service rules.

3. As we go through the narrative, we shall discover that this phenomenon of Guest Teachers is not new to the State of Uttarakhand. It was being implemented in different States in the recent past, and when abused, a fitting challenge has also been made to it before the respective High Courts, which have all, without exception frowned on this method of recruitment, declaring it to be unconstitutional.

4. Guest teachers continue in Uttarakhand, in spite of warnings and orders against such practise by this Court on earlier occasions as well. Logically therefore the petitioners would also argue that the present practise of appointment of Guest Teachers, apart from being violative of Constitution of India, is also in violation of clear orders of this Court. These orders would be referred in the paragraphs that follow shortly.

5. In the State of Uttarakhand the scheme of "guest teachers", was introduced formally for the first time at Secondary and Intermediate level schools by Government Order dated 13.04.2015. The Government Order dated 13.04.2015 states that in Government Schools and Colleges there are a number of posts of Assistant Teachers (L.T. Grade), and Lecturers presently lying vacant. These vacancies affect education and the overall development of students and it reduces the quality of education as well. This Government Order after posing a seemingly genuine problem, further states that as of now there are 3089 posts of Assistant Teachers (L.T. Grade) and 1213 posts of Lecturers lying vacant in the State, and though requisition has already been sent to the selection body for making selections on these posts, yet regular selection and appointment is a time consuming process, and in any case short term vacancies keep arising in Government Schools and Colleges, in cases of maternity leave, child care leave, or in cases of other unforeseen contingencies, and the Government therefore has taken a policy decision, in public interest, to constitute a pool of "Guest

Teachers", at Block level from which teachers will be sent to these schools and colleges where these vacancies arise. This pool would be constituted at Block level and will consist of twice the numbers of existing vacancies in a Block. As per clause 3.5 of the Government Order dated 13.04.2015, for determining the number of "visiting teachers" to be appointed in a particular block, a four-members Block Level Committee will be constituted under the Chairmanship of Sub-Divisional Magistrate of the concerned block and three Block Education Officers and the Chief Education Officer as Member Secretary. Further, there is a procedure given in the Government Order as to how a candidate has to be awarded marks, for selection in this "pool" of teachers.

6. Consequent to the above Government Order, Guest Teachers have been appointed at Block levels in the State. This Scheme was initially challenged before this Court in Writ Petition (S/S) No. 598 of 2015, Ravikant & others v. State of Uttarakhand & another. The main ground for challenge to the Scheme by the petitioners in the above writ petition was that the Government is doing something indirectly which it cannot do directly as it is not following the policy of reservation in making such appointments. The writ petition, however, was dismissed by this Court vide order dated 27.04.2015, as the stand taken by the Government was that the scheme of appointment of "Guest Teachers" is purely a temporary measure in order to meet a given contingency and such Guest Teachers who are appointed as Assistant Teachers (L.T. Grade) or even as Lecturers, do not have any right on the post for their absorption, regularisation therein and hence the writ petition was dismissed by this Court by the following observations:-

"Primarily such a scheme does not violate the provisions of the Constitution of India as submitted for the reason that the state here is not giving any "employment". It is a temporary measure to meet a contingency, till regular selections are made when residence cannot be a criteria. Moreover, it is made clear that the Government must clarify to such "teachers" that they are being employed for a temporary period and their engagement as temporary part time visiting teacher will not give them any lien whatsoever for absorption as "teachers" in future."

7. Shortly thereafter, in other bunch of writ petitions (Writ Petition (S/S) No. 318 of 2016 being the leading writ petition), the petitioners came up with a case that now the regular selection process has been completed by the Government and some of the petitioners have also been selected in the said selection process, yet they are not being appointed on these regular substantive vacancies as these posts are presently being occupied by "Guest Teachers". Petitioners particularly pointed out to the Government Order dated 28.01.2016, wherein it was stated that those selected shall be appointed in a phased manner but the "guest teachers" shall not be disturbed.

8. During the hearing of the above petition, Ms. Sushma Singh, who was the Regional Additional Director (Intermediate Education), Kumaon Region, Nainital

appeared before this Court on 11.04.2016 and gave a statement that the Government has decided not to renew the period of Guest Teachers and therefore the candidates who have been selected by means of regular process will now be abolished. The Writ Petition (S/S) No. 318 of 2016 was disposed of by this Court by the following orders:

"4. All the same, today Ms. Sushma Singh, Regional Additional Director (Intermediate Education), Kumaon Region, Nainital is present before this Court and she has given a statement that she has instructions from the Director General of Education in this regard that the Government has taken a decision not to renew the period for the Guest Teachers after 31.03.2016 and therefore as of now there are no Guest Teacher is working in the State of Uttarakhand. This Court has further been informed by her that the vacancies, which were at one time occupied, even though temporarily, by the Guest Teachers are now vacant and hence the selected candidates for the post of Assistant Teacher (L.T. Grade) will be appointed on these posts.

5. In any case, the scheme for appointment of Guest Teachers was only there to cater to a contingency where teachers were on leave due to sickness, maternity or any such contingency. These appointments are absolutely temporary and stop gap arrangement and the persons who occupy such posts have absolutely no right to continue on the said post endlessly. All the same, since the decision has been taken by the Government itself not to continue with the Guest Teachers and such posts which were earlier occupied by them will now be filled by regular selection candidates, nothing further needs to be said on this. The order dated 28.01.2016 which is impugned in the petitions and which had directed that Guest Teacher will not be disturbed, now loose its significance and effect.

6. In view thereof, the writ petitions succeed. The respondents are directed to fill all the vacancies of teachers, keeping 10% posts vacant for "Rajya Andolankaris", as that is still a subject matter pending before the Division Bench of this Court in a Public Interest Litigation. Let the remaining 90% of the posts be filled by way of regular selection. Let the appointments be made, in accordance with law.

7. The State Government shall declare the result for the Assistant Teacher (L.T. Grade) forthwith, and make appointments."

9. The order of this Court dated 11.04.2016 was, however, circumvented by the Government as instead of working on its assurance it passed another order on 03.05.2016, wherein it has again said that after the regularly appointed Assistant Teachers (L.T. Grade) the post which remains vacant shall be filled by way of Guest Teachers and such process must be immediately implemented.

10. As we have seen the Scheme of Guest Teachers is not a Scheme under any statute but it has been implemented through various Government Orders beginning with Government Order dated 13.04.2015. After 13.04.2015, there are three other orders passed by the Government on 08.05.2015, 27.05.2015 and

04.08.2015 respectively, wherein quantum of honorarium, duration of these guest teachers and other norms were laid down, or changed from time to time.

11. Consequent to order dated 03.05.2016 discussed in the preceding paragraphs, another Government Order has been passed which is dated 25.05.2016. By this order the duration of Guest teachers was extended till the end of academic session or till a regular selection is made. It was further declared that in case a post is not available at the same Block, the guest teacher can be adjusted to another Block and if it is not another Block then anywhere in the State. We now notice a definite shift in Government's policy which has turned a students Centric Policy (Government Order dated 13.04.2015) to a teacher Centric Policy, and by doing that it has violated the Service Rules as well as the provision of Constitution of India, particularly Article 14 of the Constitution.

12. As a concept the scheme of "guest teachers" looked attractive. It could even be said to be laudable. It looked like a scheme geared towards the welfare of the students, and it may well have been the intention of the Government, at least initially. The problem only comes when these students centric schemes change to teacher centric, and then to a clear violation of the Constitution and the laws. It is then that the Courts have to step in.

13. There is now no room for any doubt that the Government clearly intends to carry on with the scheme of guest teachers and has no intention to dispense the services of these teachers, even though in many cases duly selected candidates are available and waiting in the wings with a legitimate expectation that they shall be shortly given their appointment.

14. In the present writ petitions, what is being challenged is Government Order dated 25.05.2016, apart from the general challenge to the entire Scheme of Guest Teachers, implemented through various Government Orders referred above. This Court vide its interim order dated 02.06.2016 had already stayed the operation and effect of the Government Order dated 25.05.2016. The relevant paragraphs of the interim order dated 02.06.2016 reads as under:-

"9. The scheme of appointment of Assistant Teachers (LT Grade) and the Lecturers is in violation of Article 14 of the Constitution of India, it is submitted by the petitioners, and also against the clear undertaking given by a senior education officer of the State as the State has now taken a decision not to continue with the scheme of guest teachers. Clearly, the Government is doing the same indirectly, which it cannot do directly. This is hence as of now apparently a colourable exercise of power. The Court has absolutely no doubt in its mind that in such a case an interference must be made, as this Court is of a prima facie opinion that respondents are not only violating the law but their action is arbitrary and in violation of Article 14 of the Constitution of India.

10. Consequently, it is directed that the operation and effect of the Government Order dated 25.5.2016 shall remain stayed until further orders of this Court."

15. Now, the counter affidavit and rejoinder affidavit have been exchanged in the matter and the matter has been for hearing for the last few days.

16. At this juncture, it must be stated that as far as appointment on the post of Lecturer is concerned, that appointment can only be made on the recommendations of the State Public Service Commission as the post falls within the purview of the State Public Service Commission. As of now even though requisition was made to the Public Service Commission way-back in the year 2014, the recommendations have not been completed by the Commission as yet. Moreover, in the present writ petitions the appointments under challenge are of Assistant Teachers (L.T. Grade).

17. The posts of Assistant Teachers (L.T. Grade) are outside the purview of the State Public Service Commission and selection to these posts is to be made by a Government Body known as Uttarakhand Board of Technical Education. This Court has been informed that for all 2700 posts, though selections have been made but appointments have not been made so far on the entire recommendations of the Selection Committee. This Court has further been informed that even if entire recommendations of the Uttarakhand Board of Technical Education are being implemented, yet presently 1745 vacancies of Assistant Teachers LT Grade and 2223 posts of Lecturer would still lie vacant. As per the Government they are going to fill all these posts by Guest Teachers till a regular selection is made.

18. Appointments to the posts of Assistant Teachers (L.T. Grade) are made under the Rules known as Uttarakhand Subordinate Education (Trained Graduate Grade) Service Rules, 2014. According to the Rule 5 of the Rules, all the posts of Assistant Teacher (General Branch) and Assistant Teachers (General Branch/ Women Branch) are to be filled as follows:

1. 60 % posts have to be filled by way of direct recruitment through a written examination.

2. 30 % posts have to be filled by way of promotion from amongst the Headmasters of Primary Schools, Assistant Teachers of Junior High Schools and Assistant Teachers of Government Model Schools. These 30 % posts have to be filled by way of promotion on the basis of seniority subject to rejection of unfit.

3. The remaining 10 % posts of Assistant Teachers have to be filled by way of departmental written examination from amongst Primary School Teachers, Headmasters, Primary Schools, Assistant Teacher in Junior High Schools and Assistant Teachers in Government Model Schools, who have the qualification for the post.

19. Further it must be stated at this juncture that we are presently concerned with the 60 % of vacancies, as what we are dealing with is the direct recruitment of Assistant Teacher (L.T. Grade).

20. Rule 8 of the 2014 Rules further gives the eligibility for different posts of

Assistant Teachers such as Assistant Teacher (General), Assistant Teacher (Maths), Assistant Teacher (Science), Assistant Teacher (Language), etc. For Assistant Teacher (General), a candidate must have graduation degree in any of two subjects i.e. Geography, Economics, Political Science or History and L.T. Diploma from a University established by law or four years integrated B.A.Ed. course.

21. Apart from the above qualifications, a candidate must have Teachers Eligibility Test ?II (from hereinafter referred to as "TET-II"), as well and he/she must be registered with the District Employment Exchange. A candidate will be judged on the basis of written examination, which will be of 200 marks out of which 100 marks shall be on the basis of questions related to Educational Aptitude, Reasoning and General Knowledge and another question paper of 100 marks will be of the subject for which a candidate wants to become a teacher. A candidate is marked as per his score. This is the procedure which is laid down as per the Rules of 2014. The main challenge of the petitioners, therefore, before this Court, is that present scheme of Guest Teachers is violative of Rules inasmuch as there is no written test which a candidate is required to qualify, nor is the reservation law followed.

22. There is absolutely no doubt that the procedure being adopted by the Government for appointment of Guest Teachers is in violation of the Rules referred above. The Government cannot make any deviation from the Rules, under which appointments are to be made on public posts. This Court, was given to understand earlier that these appointments are being made purely in order to meet a given contingency and are in the interest of the students, particularly in far flung areas of the hill State where vacancies are not easily filled. It is for this reason that this Court had not interfered earlier with the recruitment of Guest Teachers. But this aspect has drawn attention of this Court in litigation after litigations, and much time of the Court has been consumed in dealing with this problem. The Court has no quarrel with the scheme of Guest Teachers per se. The scheme initially was meant for the welfare of the student community and as the first Government Order dated 13.04.2015 shows that what was in the mind of the Government was not that persons having qualifications for the post of Assistant Teacher (LT Grade), be given employment but the factor which appeared to be in the mind of the Government was that posts of Assistant Teachers (LT Grade), and Lecturers in Government Schools should not be lying vacant as it would adversely affect the children who are studying in these schools. The anxiety and concern of the Government at that particular juncture, were understandable, but now the ground realities do not show that what was being done was sincerely intended. A policy which was shown to be student centric policy has turned into a policy concerned with only the welfare of a few, who have gained employment by a mechanism which is de hors the Rules, and they are continuing to hold regular substantive vacancies.

23. Had the Government been serious in making appointments on the vacancies

of the Assistant Teachers LT Grade and Lecturers, they could have done that much earlier, or at least they would have expedited the procedure. No efforts have been done in this regard. Instead what is being resorted to is pure adhocism, whereby the Government wants to continue with these Guest Teachers. This amounts to filling Government schools and colleges with teachers who have not come to these schools by the dint of their merit or by way of regular selection but through a back door. It is a common practise that after a passage of time, these guest teachers if allowed to continue will start asserting their rights on the basis of real or imaginary hardships.

24. In the beginning of this order, a reference has been made to the scheme of "Guest Teachers" being implemented in other States as well and the challenge thrown against that in their respective High Courts. This practise was going on in Haryana and Rajasthan. In Haryana, they were again called as "Guest Teachers" and in Rajasthan, their nomenclature was "Vidhyarthi Mitra". It was introduced as far back in the year 2005 in the State of Haryana, and though declared illegal by different judgments of Punjab & Haryana High Court, the Guest Teachers continued to flourish till very recently. The first judgment which must be referred at this juncture is *Tilak Raj v. State of Haryana and others* (Civil Writ Petition No. 6090 of 2010), where a public interest litigation was filed against the scheme and the appointment of "Guest Teachers". In Government schools, in total violation of law and service rules these back door appointments of guest teachers were being made, which were challenged in the above mentioned PIL. While allowing the public interest litigation, the Division Bench of Punjab and Haryana High Court agreeing with the contention of the petitioner declared the appointment of Guest Teacher as totally a back door appointment and held as follows:

"Learned counsel for the PIL petitioner is correct in his submissions that the guest teachers are backdoor entrants and the State has been virtually encouraging an unacceptable practise. The norms for appointment of guest teachers, as originally set out by the policy guidelines dated 17.12.2005, were thrown to the winds at the time of recruitment. Instead a process of handpicking candidates for appointment had been resorted to. Slowly but steadily vested rights, though limited, had been conferred by making such engagements on contract basis, for a fixed duration against a consolidated pay. Such actions of the State amount to perpetuation of an illegality which cannot be permitted on the touchstone of Articles 14 and 16 of the Constitution of India. Learned counsel has also pointed out that a large number of eligible persons (more than 51000) are waiting for regular appointment, which is being delayed by the State. Therefore, according to the learned counsel for the petitioner, any further extension of the tenure of the guest teachers or their fresh appointment should be interdicted by the Court. An apprehension has also been expressed that many of the eligible candidates, by the time the regular recruitment process is put in place, will become overaged to seek employment under the State."

25. Later, it appears that the matter of guest teachers from the same High Court went upto the Hon'ble Apex Court when in a Special Leave to Appeal (Civil) No. 5956-5957 of 2012, Naresh Kumar and others v. State of Haryana and others, the Hon'ble Apex Court held as follows:

"7. Having heard the learned Attorney General for India, Mr. Subramaniam and Mr. Vishwanathan learned senior advocates, for the parties and also keeping in mind the submissions made by Mr. Vishwanathan, that the intention of the Division Bench of the High Court was that no further appointments of "Guest Teachers" should be made after 1st April, 2012, and that the vacancies should be filled up by posting and reposting teachers in the different institutions, we feel that the two things should really be kept separate, notwithstanding the apprehension voiced by Mr. Vishwanathan, that this could lead to continuance of appointment of "Guest Teachers".

8. We make it very clear that as directed by the Division Bench of the High Court, no fresh appointments of "Guest Teachers" will be made from 1st April, 2012. However, since students also cannot be made to suffer on account of the delay in the appointment of regular teachers, we direct that the exercise indicated in the scheme, must be completed within the time specified in the scheme and no further extension or deviation therefrom will be permitted."

26. In fact till recently the matter of "Guest Teachers" continued to hold the attention of Punjab and Haryana High Court, where another petition was filed for extending the services of Guest Teachers till a regular appointment is made. A Division Bench of Punjab and Haryana High Court in Letter Patent Appeal No. 1391 of 2015 (O&M) filed against the judgment of learned Single Judge dismissing the case of such Guest Teachers, holding as follows:

"37. For the reasons mentioned above, we do not find any reason to interfere with the judgment of the learned Single Judge passed in the writ petitions and the review applications as the connivance of the appellants and the State as even observed by this Court earlier in Dalbir Singh's case (supra), is well established beyond doubt. This Court cannot be a party to their design. All what is evident is that there is a total adhocism in the department of Education, which is dealing with our future generations. This Court had to take a strict view this time considering the fact that compassion shown by the Court from 2012 onwards was being misused by both the parties."

27. Similarly, in the State of Rajasthan since 2006 "Vidhyarthi Mitras" were being appointed in Government Primary Schools as well as Government Secondary Schools, in the manner in which the "Guest Teachers" are being appointed presently in the State of Uttarakhand. Against the termination of their services, the "Guest Teachers" had initially filed a writ petition before a learned Single Judge of Rajasthan High Court, which was dismissed and so was their special appeal by the Division Bench. The judgment of the learned Single Judge of Rajasthan High Court was upheld by the Division Bench in D.B. Civil Special

Appeal (W) No. 21 of 2014 (Hitesh Parihar v. State of Rajasthan & Ors. It was noticed by the Division Bench that after the learned Single Judge had declared the scheme of "Vidhyarthi Mitra" as unconstitutional, the Government in compliance of the orders had abolished the scheme, yet in the special appeal, one of the prayers of the "Vidhyarthi Mitras" was also for extension of their services till regular appointment was to be made. This prayer was also dismissed by the Division Bench with the following observations:

"18. We are unable to accede to the request of learned counsel appearing for the petitioner to allow at least the trained Vidhyarthi Mitras to continue until all the posts are filled up. We do not find that considering the legal position as explained by learned Single Judge and his conclusions with which we entirely agree there is any scope to adjudicate any further on the issue of allowing Vidhyarthi Mitras to continue on the vacancies purportedly in the interest of the students. With the change in law focusing on appointment of only trained Teachers with Teachers Training qualifications and the TET qualifications and appointment of such teachers only by direct recruitment in accordance with the Rules of recruitment, it is no longer possible for allowing any untrained teacher or even a trained teacher who has not been regularly appointed to be allowed to continue on ad hoc basis or in contractual appointment."

28. It would also be necessary at this juncture to refer to the seminal decision of the Hon"ble Apex Court in Secretary, State of Karnataka and others v. Umadevi (3) and others reported in (2006) 4 SCC 1, where the Constitution Bench came down heavily on the practise of backdoor entries on public posts, and their subsequent regularisation by the Government. Although the Constitution Bench was primarily seized with the routine regularisation of appointments initially made dehors the Rules, it also made scathing comments on the practise of contractual or other similar appointments. The Constitution Bench, in para 43 of the judgment, observed as under:

"43. Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a Court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his

appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because, an employee had continued under cover of an order of Court, which we have described as "litigious employment" in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates."

29. In view of the above the scheme of "Guest Teachers" in Government Schools is declared to be violative of Article 14 of the Constitution of India. Consequently, Government Orders dated 13.04.2015 and other subsequent orders such as Government Orders dated 08.05.2015, 27.05.2015, 04.08.2015, 03.05.2016 and 25.05.2016 pertaining to appointment and relating to Guest Teachers are hereby quashed and set aside. A mandamus is further issued to the Secretary, School Education, Government of Uttarakhand as well as Director, Secondary Education, Uttarakhand, Dehradun to forthwith initiate the process of selection for all the existing vacancies of Assistant Teachers as well as of the Lecturers. It is further made clear that apart from regular vacancies, they must prepare a waiting list as well, which must have a life of at least one year so that recourse may not be taken of another selection process immediately.

30. All writ petitions are accordingly allowed.

31. Having made the above determination, however, the Court cannot loose sight of the fact, as has also been pointed out by the learned Advocate General Sri V.B.S. Negi before this Court today and even on earlier hearings, that there are Government Schools both at secondary and intermediate levels spread in the entire length and breadth of the State, but more particularly in remote hill areas where vacancies of Assistant Teachers and Lecturers are lying vacant, and presently can only be filled from the existing pool of Guest Teachers and as such

they may be allowed to do that till a regular appointment is made on these posts in the present ongoing selection or in the next ongoing selection, which shall be taken recourse to immediately, if not already taken.

32. Consequently for the present juncture, a balance needs to be created purely in the interest of the student community who are the main stakeholders of the system. It is hence provided that in such blocks where competent and fully eligible Assistant Teachers having all qualifications including TET-II qualification are available they may be appointed as a stop-gap arrangement till regular incumbents are selected and formally join the post. It is, however, made clear that in no condition and irrespective of whether regularly selected candidates are appointed or not, these Guest Teachers shall not be allowed to continue on these posts beyond 31.03.2017, i.e. till the present ongoing academic session.

33. Let copy of this judgment be placed in each connected petition.