

(2018) 01 OHC CK 0053

In the Orissa High Court

Case No : 372 of 2016

Avimanyu Nayak & Ors

APPELLANT

Vs

State of Odisha & others

RESPONDENT

Date of Decision : 09-01-2018

Acts Referred:

Constitution of India, Article 14, Article 226 - Appointment of Commission to inquire into and report on the administration of autonomous districts and autonomous regions - Power of High Courts

Citation : (2018) 01 OHC CK 0053

Hon'ble Judges : I. Mahanty, K.R. Mohapatra

Bench : Division Bench

Advocate : Dillip Ku. Mohapatra, A.Sahoo, N.Nayak, Sidhartha Sankar Mohapatra

Final Decision : Allowed

Judgement

1. These intra-Court appeals have been filed assailing the common order dated 16.07.2016 (Annexure-1) passed by learned Single Judge in W.P.

(C) No.9003 of 2015 and similar other writ applications heard and disposed of analogously.

For the sake of convenience of discussion and adjudication, we take up Writ Appeal No.372 of 2016 arising out of W.P.(C) No. 9003 of 2015

as the lead case and dispose of these appeals by a common judgment.

2. The appellant in the aforesaid writ appeal is an Assistant Teacher in Sankata Tarini High School, Melan in the district of Keonjhar. The appellant

is an untrained graduate and has been appointed against a trained graduate post. Teachers similarly placed as that of the appellant undertake B.Ed.

course as in-service candidates for their substantive appointment and approval of their services as a Trained Graduate Teacher. Each year, the

Directorate of Teacher Education and S.C.E.R.T., Odisha, Bhubaneswar publishes advertisement inviting applications from the candidates (both

direct and in-service) seeking admission to different teachers training courses including B.Ed. Likewise, an advertisement was published by the

Director of T.E. & S.C.E.R.T., Odisha, Bhubaneswar-opposite party No.3 in local daily newspaper ""Sambad"" on 23.04.2015 inviting

applications for admissions into B.Ed. course for the academic Session 2015-2017.

Clause-3 of the Information Brochure to the said advertisement deals with eligibility criteria for the candidates seeking admission to the B.Ed.

course. Clause-3.12 deals with eligibility criteria for in-service candidates. The petitioner had filed the writ petition assailing the said Clause-3.12 of

the Information Brochure, which reads as follows:-

3.12 Inservice Candidates:

There will be no Entrance Test for In-service Candidates. Eligibility:

General candidates having 50% marks and reserved category i.e. SC,ST,OBC/SEBC, PH having 45% marks in aggregate, either in

Bachelor's Degree and /or in the Master's Degree or any other qualification equivalent thereto are eligible to apply.

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It was the case of the petitioner before the writ Court that the requirement of minimum 50% of marks in graduation or Master's degree for taking

admission in B.Ed. course for general in-service candidates and minimum 45% of marks for the reserved category inservice candidates is not only

illegal, but also contrary to the guidelines issued by N.C.E.R.T. Requirement of minimum percentage of marks as stated above is also arbitrary,

unreasonable and violative of Article 14 of the Constitution of India. The same cannot be made applicable to the inservice candidates. Such a

restriction, if insisted upon, many of the inservice candidates like that of the appellant cannot take admission in the teachers' training course and will

face termination in service. There is also no object sought to be achieved by imposing such a restriction.

3. It is contended in the writ petition that in previous years, no such condition (either for direct or for in-service candidates) was imposed for taking

admission into the B.Ed. course. Further, the condition of minimum percentage of

marks for admission into the B. Ed. course for the in-service

candidates is illegal as there is no such stipulation in the statutory rules for appointment to the post of Trained Graduate Teachers. Hence, it was

prayed to quash the Clause-3.12 of the Information Brochure for the Session 2015-2017 issued by the TE & SCERT, Odisha, Bhubaneswar and

for a declaration not to make it applicable to the in-service candidates.

4. Counter affidavit was filed by the Director of TE & SCERT (opposite party No.3) stating inter alia that the guidelines fixed by National Council

for Teacher Education (NCTE) is being followed for the purpose of admission into different teachers training courses. Section 32 of National

Council for Teachers Education Act, 1993 (for short "the Act, 1993"), confers power on NCTE to make regulations. Section-32 (2) (d)(ii) of the

Act, 1993 empowers the Council to make regulations with regard to the norms, guidelines and standard in respect of specific category of courses

or training in teachers education. Section-12 (e) of Act, 1993, which deals with functions of NCTE, reads as follows:-

12. FUNCTIONS OF THE COUNCIL It shall be the duty of the Council to take all such steps as it may think fit for ensuring planned and

coordinated development of teacher education and for the determination and maintenance of standards for teacher education and for the purposes

of performing its functions under this Act, the Council may -

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(e) lay down norms for any specified category of courses or trainings in teacher education, including the minimum eligibility criteria for admission

thereof, and the method of selection of candidates, duration of the course, course contents and mode of curriculum;

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Accordingly, in exercise of power conferred under Section 32(2) (d) (ii) read with Section-12 (e) of the Act, 1993, NCTE, vide its notification

dated 28.11.2014 framed "National Council for Teachers Education (Recognition Norms and Procedure) Regulations, 2014" (for short,

Regulations, 2014") in supersession of the earlier Regulations of 2009 of NCTE. Clause-3.2 of Appendix-4 of the Regulations, 2014 provides as

follows:-

3.2 Eligibility

(a) Candidates with at least fifty percent marks either in the Bachelor's Degree and/or in the Master's Degree in Sciences/Social

Sciences/Humanity, Bachelor's in Engineering or Technology with specialization in Science and Mathematics with 55% marks or any other

qualification equivalent thereto, are eligible for admission to the programme.

(b) The reservation and relaxation for SC/ST/OBC/PWD and other categories shall be as per the rules of the Central Government/State

Government, whichever is applicable.

Clause-3.12 of the Information Brochure is in consonance with the Act, 1993 and Regulations made thereunder. As such, stipulation of such an

eligibility criteria in the Information Brochure is neither legal nor arbitrary as alleged by the Petitioner.

5. Rejoinder affidavit was filed by the petitioner, wherein, it was contended that National Council for Teachers Education (Recognition Norms and

Procedure) Regulations, 2009, came into force with effect from 13.05.2009, i.e., from the date of publication in the official gazette. As per

Appendix-4 of the said Regulations, eligibility criteria for admission into the B.Ed. course was 50% marks in graduation for the general candidates.

As such, the eligibility criterion for admission into B.Ed. course is one and the same in Regulations, 2014. But, the same was not insisted upon for

the in-service candidates in previous years as the said eligibility criteria was meant for the fresh candidates only and not for the in-service

candidates. There is no specific provision for in-service candidates in 2014 Regulations. Such an eligibility criteria was restricted to fresh

candidates consciously with certain objective and it can never be made applicable to the in-service candidates, as the untrained in-service

candidates require B.Ed. qualification to be substantively appointed to the post of Trained Graduate Teacher against which they are appointed. It is

further contended that since there was no reservation for in-service candidates to take admission in B.Ed. course, the same was a subject matter of

challenge before this Court in the case of Anil Kumar Das and others - v- State of Odisha and others, reported in 2009 (Sup-II) OLR 412,

wherein, this Court held that in-service teachers, who have been appointed against trained graduate post, are required to undergo B.Ed. training as

in-service candidates for the purpose of holding the post substantively and for approval of their appointment.

In the paragraph-8 of Anil Kumar Das (supra), this Court has held as follows:

8. Applying the above principles & the ratio laid down by the Apex Court, to the facts of the present case, it is amply clear that the decision of the

Government in withdrawing reservation of seats for in-service candidates in B.Ed. course for the session 2009-2010 has not only been done in a

casual manner but on judicial review, it is found that the same is arbitrary & unreasonable as well as contrary to the enforceable legitimate

expectation of the Petitioners. There is also absence of any overriding public interest for which such deviation of the policy could have been made.

The principles of natural justice has been manifestly violated as the change in the policy was made without giving an opportunity to the affected

persons & the same was resulted in unfairness which is not in conformity with article 14 of the constitution.

Accordingly, this Court, realizing the exigency of undertaking B.Ed. training course by the in-service candidates, directed for making reservation

for the in-service candidates, as was being done in previous years. Further, Regulation 12 of the NCTE Regulations, 2014, empowers the State

Government to make necessary relaxation in the Clause in case of hardship.

6. The Regional Director, Eastern Regional Committee, NCTE (opposite No.6) also filed its counter affidavit contending the assertion of petitioner

with regard to the eligibility criteria prescribed in the Information Brochure, at Clause-3.12, is not sustainable in the eyes of law as the same has

been incorporated in terms of Clauses-3.2 and 3.3 under Appendix-4 of NCTE Regulations, 2014. The provisions of Act, 1993 are intended to

improve the standards of teachers" education throughout the nation and authorities under the Act have been given exclusive responsibility to

coordinate and determine the standard of teachers" education. As such, opposite party No.6 prayed for dismissal of the writ petition. The

petitioner also filed a rejoinder affidavit to the counter filed by opposite party No.6.

7. While issuing notice in the matter, this Court, vide order dated 05.05.2015, passed in Misc. Case No. 8526 of 2015, directed the opposite

parties to entertain the application form submitted by the inservice candidates

having one year experience pursuant to the Information Brochure

issued for admission into B.Ed. course for the Session 2015-17 without putting a restriction for fixation of cut off marks relating to the eligibility as

50% marks by general category candidates and 45% marks for reserved category candidates. However, this Court, finally disposed of this writ

petition along with similar other matters, such as W.P.(C) No. 9003, 8546, 8831, 9000, 8920 and 8934 of 2015, vide order dated 16.07.2016,

with the following orders:

All the writ petitions are analogous in nature inasmuch as the issues involved in all the petitions are same. They are heard together and disposed of

by this common order.

The petitioners are teachers. They assail the notification issued by the Director, T.E. & S.C.E.R.T., Orissa, Bhubaneswar, opposite party no. 3 for

admission into in-service B.Ed. course for the academic session 2015-2017, vide Annexure-2, and action of the opposite parties in fixing the cut

off mark.

The course is for two years. In the meantime one year has elapsed. No mandamus can be issued to the opposite parties to admit the students after

lapse of one year, when the course is for two years.

At this juncture, learned counsel for the petitioners submits that the cases may be heard on merits. But then in Loknath Padhan-Vrs.- Birendra

Kumar Sahu, AIR 1974 SC 505, the apex Court in no uncertain words held that:-

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It is a well settled practice recognized and followed in India as well as England that a Court should not undertake to decide an issue, unless it is a

living issue between the parties. If an issue is purely academic in that its decision is one way or the other would have no impact on the position of

the parties it would be waste of public time and indeed not proper exercise of authority for the Court to engage itself in deciding it.

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It would be clearly futile and meaningless for the Court to decide an academic question, the answer to which would not affect the position of one

party or the other. The Court would not engage in a fruitless exercise. It would refuse to decide a question, unless it has a bearing on some right or

liability in controversy between the parties. If the decision of a question would be wholly ineffectual so far as the parties are concerned, it would be

not only unnecessary and pointless but also inexpedient to decide it and the Court would properly decline to do so.

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Accordingly, all the petitions are dismissed.

8. Learned counsel for the appellant, assailing the impugned order, contended that the issue involved in this case has a far reaching consequence

and wide ramification and the writ Court ought to have decided the said issue on merit instead of bringing an abrupt end to the writ petition holding

that no mandamus could be issued to the opposite parties to admit the students after lapse of one year of commencement of the course, when the

course was for 2 years. It also, relying upon the decision in the case of Lokanath Padhan Vs. Birendra Kumar Sahu, reported in AIR 1974 SC

505, came to a conclusion that the entertainment of the writ petition would be futile and meaningless. Accordingly, the impugned order in dismissing

the writ petitions is per se illegal. Reiterating the contentions raised before the writ Court, learned counsel for the appellant submitted that minimum

eligibility criteria provided for admission into the B.Ed. course in NCTE Regulations, 2009 was made applicable for fresh candidates only,

considering the fact that such a condition cannot be made applicable to the in-service candidates as there is no prescription of minimum qualifying

marks in graduation for the candidates to be appointed as TG Teachers in Government as well as aided Schools. Accordingly, no such restriction

was provided in the Information Brochures of previous years. Hence, such a condition in the Information Brochure for the session 2015-17 is not

only illegal but also the same is arbitrary and unsustainable being violative of Article 14 of the Constitution of India. Consequent upon such a

restriction, the untrained candidates who have already been appointed in TG Teacher post securing less than 50% marks in graduation and have

continued for substantial period would face termination, as approval of a teacher to a TG Teacher post requires B.Ed. qualification. Moreover, in

view of restrictions imposed, a large number of seats reserved for in-service candidates are lying vacant in past two years. The in-service

candidates stand in a complete different footing than that of the fresh

candidates. As such, both the categories cannot be equated. Further, prescription of minimum qualifying mark in graduation for admission into the B.Ed. course would frustrate the purpose of reservation for in-service candidates in B.Ed. course. Accordingly, he prayed for setting aside of the impugned order passed by the writ Court and prayed for striking down the provision of Clause-3.12 of the Information Brochure for admission to Teachers' Training Course and also prayed for a direction to the NCTE-respondent No.4 not to impose such a condition in respect of the in-service candidates.

9. Respective counsel for the respondents reiterated the plea they have taken before the writ Court. They also submitted that since the academic sessions is already over no fruitful purpose would be served by entertaining the appeal and allowing prayer made therein.

10. We have heard learned counsel for the parties and gone through the case record as well as the citations made at the bar.

Upon hearing on learned counsel for the parties and on scrutiny of the record, we are of the opinion that the issue involved in the writ petition as

well as in this appeal has a far reaching consequence and wide ramification and is essential to be answered as it involves service career of untrained

in-service candidates seeking admission into the B.Ed. course. They are required to acquire B.Ed. qualification for their substantive appointment

against TGT post, failing which they would lose their job. Thus, the issue requires adjudication and the writ petition could not have been dismissed

relying upon Loknath Padhan (*supra*) observing that the adjudication of the issue will be only academic. The case law supports the case of the

appellant, as it involves a controversy involving the right of the appellant to undertake B.Ed. course. Learned Single Judge has not taken this

material aspect into consideration while disposing of the writ petition.

11. Since, we have heard learned counsel for the parties at length and devoted a considerable time in hearing the matter on merit, we feel it proper

to answer the issue of validity of Clause-3.12 of the Information Brochure fixing minimum eligibility criteria for the in-service candidates for taking

admission into B.Ed. course by ourselves, instead of reemitting the matter to learned Single Judge for adjudication.

In exercise of power conferred by Section 32 (2)(d)(ii) of the Act, 1993, National

Council for Teachers Education (Recognition, Norms and Procedure) Regulations, 2009 was framed and published in the official gazette on 31st August, 2009. The Regulations were made applicable to all matters relating to teachers' education programme covering norms and standards and procedure for recognition of institutions, commencement of new programme or addition to sanctioned intake in existing programmes and other matters incidental thereto.

Appendix-4 of Regulations 2009, provides the norms and standard for Bachelor of Education programme, namely, Bachelor of Education (B.Ed. degree) Clause-3.2 deals with eligibility candidates.

Prior to publication of the Regulations, 2009, there was reservation of seats for in-service candidates in B.Ed. course for the previous year, such

as, 2006-07, 2007-08 and 2008-09. Accordingly, untrained teachers, who have been appointed by the management of various educational

institutions against the trained graduate post, were being sponsored to acquire B.Ed. qualification for their approval and substantive appointment in

those posts. But in the Regulations of 2009 there being no provision for reservation for in-service candidates in B.Ed. course they had to compete

with fresh candidates for taking admission in B.Ed. course. Assailing the same, Anil Kumar Das and twelve others, who were untrained teachers

appointed against trained graduate posts, moved this Court under Article 226 of Constitution of India. This Court, taking into consideration various

aspects, directed that there should be reservation for the in-service candidates in B.Ed. course, relevant portion of which has been quoted above.

The eligibility criteria for the candidates seeking admission to B.Ed. course are one and the same in both 2009 and 2014 Regulations. Further,

neither the Regulations, 2009, nor subsequent Regulations, 2014 made any special provision for in-service candidates. However, the eligibility

criteria of minimum 50% marks for the general candidates and 45% marks for the reserved category candidates for admission into B.Ed. course

was not being insisted upon for the inservice candidates prior to 2015-17 session. While the matter stood thus, Regulations, 2014, came into force

from the date of publication in the official gazette, i.e., on 28th November, 2014, incorporating pari materia provision with regard to minimum

eligibility criteria for taking admission into the B.Ed. course. Basing upon the

eligibility criteria provided in the Regulations, 2014, Information

Brochure, provided along with admission form, contained the minimum eligibility criteria for in-service candidates at Clause-3.12, which is quoted

hereinabove. The same has been the subject matter of challenge.

12. Respondent No.3-TE and SCERT, in its counter affidavit filed in the writ petition, stated that the requirement of minimum 50% marks in

graduation for the general candidates and 45% marks for reserved category was made in compliance of Clause-3.2 of Appendix-4 to the 2014

Regulations. The eligibility criteria for taking admission into B.Ed. course in Regulations, 2009 being one and the same in the Regulations, 2014,

imposition of such a restriction for the in-service candidates, who stand in a different footing from the fresh candidates to take admission into B.Ed.

course, appears to be outcome of total non-application of mind and colourable exercise of power, inasmuch as the same does not stand to the

scrutiny. Further, as held in Anil Kumar Das (supra), the in-service candidates have the legitimate expectation to take admission into the B.Ed.

course, as they form a separate class altogether than that of fresh candidates.

This Court in Prafulla Behera Vs. Commissioner-cum- Secretary, School and Mass Education Department and Ors., reported in 108(2009) CLT

44 held as under:

14. From the above analysis, it is clear that untrained graduate teachers teaching Sanskrit, Hindi or graduate P.E.Ts do not require B.Ed.

qualification to hold such posts substantively, whereas untrained teachers, who are holding the post of trained graduate teachers (T.G.Ts) either in

Science or in Arts subjects as per the sanctioned yardstick are required to have B.Ed. training to continue in such posts as well as to receive grant-

in-aid. The object to be achieved by allowing in-service candidates to take admission to B.Ed. course is, therefore, clear that teachers, who are

holding such T.G.T posts, as per the sanctioned yardstick on regular basis, are to be given admission to B.Ed. course as in-service candidates in

order to facilitate them for continuing in such posts and making them eligible to receive grant-in-aid. There is no requirement of B.Ed. training for

Classical teachers, Hindi teachers and P.E.Ts, who are graduates, for continuing in their respective posts. As already discussed, such training is

also not necessary for the aforesaid classes of teachers for being promoted to

O.S.E.S. cadre as they are not in Government service.

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16. Under Article 14 of the Constitution of India, equals cannot be treated as un-equals. Similarly, as in the instant case, un-equals cannot be

treated as equals. No acceptable reason has also been brought to the notice of this Court as to for what purpose, the Classical teachers, Hindi

teachers and P.E.Ts were included within the definition of in-service candidates in the Information Brochure of 2008- 09, when such teachers were

not included in the Information Brochure for the year 2007-08. (See (2008) 2 SCC (L&S) 1000).

(emphasis supplied)

13. In course of hearing, learned counsel for the appellant produced a copy of Government of Odisha Resolution No.5793/SME dated

31.03.2017 (Department of School and Mass Education), obtained by the appellant from the Directorate of TE and SCERT, Odisha,

Bhubaneswar under the provisions of Right to Information Act. Said Government Resolution relates to the "Training Policy for In-service

Untrained Elementary and Secondary School Teachers/SS in the State" The object behind such resolution is as follows:-

1. State's education system requires to be effective in terms of enhanced learning outcomes, professionally qualified and committed teachers in

adequate numbers. The State has been committed to ensure that students have the right to access to competent teachers. In pursuit of this

commitment, due to a number of compelling circumstances, teachers, including Shiksha Sahayaks (SSs), without pre-service training qualifications

(D.El.Ed. for primary level, B.Ed. for upper primary level, and B.Ed./B.H.Ed. for secondary level) were engaged. Such professionally untrained

teachers were inducted into the system as SSs and teachers primarily due to : (i) nonavailability of trained teachers belonging to the SC/ST/PH

category; ii) compulsion to comply with the RTE 2009 mandated teachers - pupil ratio (1:35) for upper primary schools for which permission of

NCTE (Academic Authority declared under RTE Act) was obtained by the State Government; (iii) dearth of trained teachers with Science and

Mathematics background and (iv) need for filling up of vacant teacher posts in tribal dominated district inflicted with several educational

disadvantages and deprivations. Moreover, the training programme through distance mode taken up by the State Government was not able to

provide training to such category of teachers/SSs.

2. In view of this the urgency of making provision for "in-service training" for such professionally untrained teachers has assumed critical importance

on account of : first, to comply to RTE (2009) mandated qualifications, the deadline for which was April 01, 2015; second, to ensure that students

have access to quality teachers and third, the direction of the Hon'ble High Court of Odisha to draw up a concrete and comprehensive training

policy for the untrained teachers who have been pressed into service under compelling circumstances. Keeping these necessities in view after

careful consideration the State Government have decided to formulate a training policy to provide training facilities to such teachers/SSs in the

regular B.Ed./B.HEd. course within a specific time-frame in the following manner. Colleges of Teacher Education and Institutes of Advanced

Studies in Education in the State shall be enhanced to 25% w.e.f., the academic session, i.e., 2017-2018. Out of the 25% reserved seats, 20% of

seats shall be earmarked for untrained Graduate teachers/SSs working in upper primary schools and the remaining 5% seats shall be kept reserved

for untrained teachers posted against sanctioned Trained Graduate posts in recognized Govt. Aided/Block Grant Secondary Schools under the

Schools and Mass Education Department.

(emphasis supplied)

However, the eligibility of the candidates to be enrolled for professional training has been fixed as follows:-

3. Eligibility

The untrained qualified teachers who have been appointed by the competent authority as per rule and having NCTE prescribed percentage of

marks in their last qualifying examinations (50%/45% for unreserved/reserved category candidates) are eligible to be enrolled for professional

training.

On a close reading of the Resolution, it appears that the eligibility criteria provided in the Resolution is diametrically opposite to the object sought

to be achieved by such Resolution. The Policy making Body has not taken into consideration the case of the untrained teachers who have been

holding TGT posts in different Non-government Aided Schools. Their legitimate expectation of being sponsored for B.Ed. training as inservice

candidates cannot be taken away casually on the basis of a resolution of the Government which has been passed much later to their appointment

against TGT posts (refer to Anil Kumar Das supra). Thus, the Government Resolution dated 31.03.2017 (supra) cannot be made applicable to the

untrained teachers who have been appointed against TGT posts as per the sanctioned yardstick on regular basis.

Further, an educational institution for being eligible to get recognition under Section-6 of the Orissa Education Act, 1969 (for short "the

Act,1969") has to appoint qualified teachers and non-teaching staff in accordance with the prescribed procedure and yardstick as provided under

Section 6-A (g) of the Act, 1969. Rule-16 of the Orissa Education (Recruitment and Conditions of Service of Teachers and Members of Staff of

Aided Educational Institutions) Rules, 1974 makes provision for probation and confirmation of teachers. Rule-16(2) of the said Rules provides that

no teacher who has not undergone the training prescribed for the post shall hold the post substantively. It further makes provision for untrained

teachers to undergo training as in-service candidates. The qualification for Trained Graduate Teachers has been provided in Clause- (2) of

Schedule-1 of Orissa Selection Board (Education Circle) Recruitment Rules, 1994. It provides that Trained Graduate Teachers in High Schools

and Headmasters in Upper Primary Schools shall have Bachelor's Degree in Arts, Science, Commerce or an equivalent examination from a

recognized University and successful completion of a course of training equivalent to Bachelor's of Education from a recognized University. Thus,

an untrained teacher appointed against a TGT post has to acquire B.Ed. qualification for his sustentative appointment in the said post. However, it

neither provides any minimum qualifying mark at Bachelor's degree for such appointment nor it provides untrained graduates to be appointed

against TGT post. Rather Rule 16 (2) of the 1974 Rules makes provision for untrained teachers to undergo training as in-service candidates. Thus,

the respondents are making sincere endeavour to bring an end to the employment of quite a large numbers of untrained teachers, who do not

satisfy the impugned minimum eligibility criteria by imposing the restriction as at impugned Clause-3.12 of the Information Brochure and also in the

subsequent resolution dated 31.03.2017, which is not the intent and object of Regulations, 2014, and as such, the same is not at all applicable to

the appellant and similar other untrained teachers, who have been appointed much before imposition of such a restriction.

There being no provision for securing minimum mark in the graduation to be appointed as a trained graduate teacher, such a restriction for taking

admission into B.Ed. course, would render the inservice candidates jobless as the in-service candidates appointed against trained graduate post

required to acquire B.Ed. degree for approval of their services and substantive appointment to the said post. The appellant could not get admission

in previous years due to paucity of seat in B.Ed. course meant for the in service candidates. Thus, imposition of the impugned condition for taking

admission into B.Ed. course, would not only amount to discrimination but also the same is arbitrary and unreasonable in respect of in-service

candidates.

14. In that view of the matter, we are constrained to strike down Clause-3.12 of the Information Brochure for admission of inservice candidates to

Teachers' Training Course, namely, B.Ed. course and hold that the restriction of minimum qualifying marks in graduation is not applicable to the in-

service candidates and direct that such a restriction shall not be imposed for the in-service candidates for taking admission to B.Ed. course.

15. The writ appeals are accordingly allowed. Common order dated 16.07.2016 (Annexure-1) passed by learned Single Judge in W.P.(C)

No.9003 of 2015 and similar other writ petitions, is accordingly set aside.