
(2020) 09 SHI CK 0358

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 3841 Of 2020

Basant Kumar & Others

APPELLANT

Vs

State Of H.P. & Another

RESPONDENT

Date of Decision : 21-09-2020

Acts Referred:

Himachal Pradesh RTE Rules, 2011 — Rule 15

Right Of Children To Free And Compulsory Education (RTE) Act, 2009 — Section 23(2)

Citation : (2020) 09 SHI CK 0358

Hon'ble Judges : L. Narayana Swamy, CJ;Anoop Chitkara, J

Bench : Division Bench

Advocate : Ajay Shandil, Ashok Sharma, Adarsh Sharma, Ritta Goswami

Final Decision : Disposed Of

Judgement

L. Narayana Swamy, CJ

1. By way of this writ petition, the petitioners seek the following main reliefs:

"I That a Writ in the nature of Mandamus may kindly be issued, directing the respondents to consider the candidature of petitioners for promotion to the post of TGT (Arts) and waive the condition of less marks in graduation in view of the amendments carried out by the National Council for Teacher Education vide notification dated 13th November, 2019 in the interest of equity, law and justice.

II That necessary directions may be issued to respondents directing to consider the candidature of petitioners for promotion to the post of TGT(Arts) without imposing the conditions of less percentage in graduation as mentioned in Annexure-P/9.

III That the respondents may very kindly be directed to adhere to and obey notification dated 23.08.2010 issued by NCTE i.e. Annexure-P/5, which expressly provide relaxations in educational qualifications in favour of in service teachers.

IV That the respondents may be directed to consider the case of petitioners for

promotion from the day their juniors have been promoted as TGT (Arts) along with consequential benefits.

V That the respondents may be directed to grant promotion to the petitioners as TGT(arts) by giving one time relaxation of five year for acquiring minimum qualification as per section 23(2) of RTE Act, 2009 and Rule 15 of RTE HP Rules, 2011."

2. The case of the petitioners is that they are required to be considered for promotion to the post of TGT (Arts) and the respondents are not considering them for promotion, while some of the juniors of the petitioners have been promoted.

3. Learned Additional Advocate General, on the other hand, submits that the petitioners have got no cause of action to file the present petition since the respondents have not promoted either juniors or ineligible persons to the post of TGT (Arts). He prays that the petition be dismissed.

4. We have heard learned Counsel for the parties and perused the entire record carefully.

5. Though, it is a matter fit to be listed before the Single Bench, but the learned Counsel for the petitioners prays that this writ petition be disposed of permitting the petitioners to file a representation before the respondents and the respondents may be directed to consider the same in a time bound manner.

6. In the given facts and circumstances of the case, we deem it appropriate to dispose of this writ petition reserving liberty to the petitioners to file a representation(s) alongwith supporting documents before the respondents within one week from today and the respondents are directed to examine the same and pass appropriate orders, as per the applicable Rules, within two weeks thereafter. Till then, the respondents are directed not to effect promotion.

7. In the above terms, the writ petition is disposed of along with pending application(s), if any.

Copy dasti.