
(2026) 03 SC CK 1449

In the Supreme Court Of India

Case No : Civil Appeal Nos. 3647-3669 Of 2026 (@ Special Leave Petition (Civil)
Nos. 14517 - 14539 Of 2025)

Chaya & Ors. Etc

APPELLANT

Vs

State Of Maharashtra & Anr. Etc

RESPONDENT

Date of Decision : 23-03-2026

Acts Referred:

Constitution of India, 1959 — Article 14, 15, 16, 16(1), 38
Right of Children to Free and Compulsory Education Act, 2009 — Section 23, 23(1)
Uttar Pradesh Public Services (Reservation For Scheduled Castes, Scheduled Tribes
And Other Back-Ward Classes) Act, 1994 — Section 8(1)

Citation : (2026) 03 SC CK 1449

Hon'ble Judges : Pamidighantam Sri Narasimha, J;Alok Aradhe, J

Bench : Division Bench

Advocate : P.S. Patwalia, R.k. Singh, Neeraj Singh, Tom Joseph, B. Ravindra Kumar, Kumar Gaurav, Muskan Singh, Shyam Mehta, Varad Kilor,Siddharth Dharmadhikari, Aaditya Aniruddha Pande, Shrirang B. Varma, Kuldeep Singh Kuchaliya, Richa Tripathi, Aman Rastogi, Sanjay Rastogi, Dr. Linto K.b., Praveen Pathak, Duvvada Ramesh, Pankhuri Shrivastava, Neelam Sharma, Alekshendra Sharma, Deepankar Kumar, Geetanjali Mohan, Saumya Tiwari, Shalini Chandra, Virag Gupta, Rupali Panwar, U M Tripathi, Vishal Arun Mishra, Kailas Bajirao Autade

Final Decision : Allowed

Judgement

Alok Aradhe, J

1. Leave granted.

2. These appeals arise out of the common judgment dated 14.02.2025, passed by the High Court of Judicature at Bombay, Bench at Aurangabad (High Court). The appellants belonging to reserved categories, had challenged the merit list dated 25.02.2024 prepared pursuant to Teachers Aptitude and Intelligence Test, 2022 (TAIT), conducted by Maharashtra State Council for Education (MSCE) for recruitment of teachers to the different schools of Zila Parishad, Municipal

Corporations, Nagar Parishad and Private Managements. The High Court by impugned judgment has dismissed the writ petitions.

3. The appellants, though more meritorious, were excluded from the merit list dated 25.02.2024 on the ground that they had availed of relaxation in the qualifying marks in Teachers Eligibility Test (TET).

4. Various decisions of this Court have given rise to lengthy submissions before us. However, the controversy in the present batch of appeals lies in a narrow compass. The principal issue is whether candidates belonging to reserved categories, who have availed relaxation in a qualifying examination to become eligible for the main selection process, are entitled to migrate to the open/unreserved category on the basis of merit secured in the main examination.

STATUTORY SCHEME

5. The Right of Children to Free and Compulsory Education Act, 2009 (Act) is an Act to provide for free and compulsory education to children aged six to fourteen years. Section 23 of the Act stipulates that only persons possessing such minimum qualifications, as prescribed by an academic authority authorized by the Central Government, are eligible for appointment as teachers. The Central Government constituted the National Council for Teacher Education (NCTE) on 23.08.2010 as the apex body to prescribe the minimum qualifications for appointment of teachers. By notification dated 23.08.2010, issued under Section 23(1) of the Act, the NCTE prescribed the minimum qualifications for appointment of teachers from class I to VIII, in a school referred to in Section 2(n) of the Act and mandated qualification in TET conducted by the appropriate Government in accordance with its guidelines.

FACTS

6. The NCTE issued guidelines on 11.02.2011, for conducting TET under the Act. Clause 9 of the guidelines prescribes the qualifying marks for passing the test. The State of Maharashtra by a Government Resolution dated 13.02.2013, laid down the policy and procedure relating to recruitment of teachers in the State. The aforesaid Resolution aligned the recruitment process with the qualification prescribed by the NCTE. Subsequent Government Resolutions dated 23.08.2013, 23.06.2017 and 10.11.2022 clarified procedural aspects relating to recruitment, eligibility, implementation of reservation, conduct of recruitment examination and preparation of merit lists.

7. The MSCE issued a notification dated 31.01.2023 for conducting TAIT-2022, between 22.02.2023 to 03.03.2023. Para 5 of the aforesaid notification deals with eligibility of the candidates and Para 5.3 provides that candidates must possess required educational and professional qualification as per Government Resolution dated 07.02.2019 and clarifications dated 25.02.2019, 16.05.2019 and 12.06.2019 and subsequent orders issued by the Government. Thus, the recruitment of the teachers was to be based on the marks obtained in TAIT.

The appellants participated in the aforesaid examination. The merit list was published on 25.02.2024 on an online portal excluding their names despite securing higher marks than the last selected general category candidate.

8. The appellants submitted representations through an e-mail on 26.02.2024, which failed to evoke any response. They thereafter filed writ petitions challenging the merit list dated 25.02.2024 and their exclusion from consideration under the open category.

9. The High Court by the impugned judgment dated 14.02.2025, *inter alia* held that passing TET is a mandatory prerequisite for appointment as a teacher and is an integral component of the recruitment framework. It was further held that the relaxation granted in TET cannot be ignored while determining the eligibility to compete in the open category. Relying on the decision of this Court in *Government of (NCT of Delhi) & Ors. v. Pradeep Kumar & Ors.* (2019) 10 SCC 120, the High Court held that candidates availing of the benefit of relaxation cannot migrate to general category and permitting such migration would confer an unfair advantage over general category candidates. It was also held that appellants have no enforceable legal right to claim consideration in the open category after having availed relaxation in TET. Accordingly, the writ petitions were dismissed. In the aforesaid factual background, the appellants are before us.

SUBMISSIONS

10. Learned senior counsel for the appellants submitted that relaxation in a qualifying examination cannot bar migration to the open category, when merit in the main selection examination is higher. It was contended that the open category is a merit category and not a quota reserved for general candidates. It was urged that the High Court erred in mechanically applying the decision of this Court in *Pradeep Kumar (supra)* without appreciating the factual matrix, and the purpose of relaxation in eligibility is to create a level playing field, not to penalise merit. In support of the aforesaid submissions, the reliance has been placed on the decisions of this Court [*Jitendra Kumar Singh & Anr. v. State of U.P. & Ors.*; (2010) 3 SCC 119, *Vikas Sankhala & Ors. v. Vikas Kumar Agarwal & Ors.*; (2017) 1 SCC 350, *Anjuman Ishaat-e-Taleem Trust v. State of Maharashtra & Ors.*; 2025 SCC OnLine SC 1912, *Saurav Yadav & Ors. v. State of Uttar Pradesh & Ors.*; (2021) 4 SCC 542, *Indra Sawhney & Ors. v. Union of India & Ors.*; (1992) Supp (3) SCC 217, *Rajasthan High Court and Another v. Rajat Yadav and Others*; 2025 SCC OnLine SC 2931, *Tej Prakash Pathak & Ors. v. Rajasthan High Court & Ors.*; (2025) 2 SCC 1, *V. Lavanya & Ors. v. State of Tamil Nadu*; (2017) 1 SCC 322.].

11. Learned senior counsel for the respondents, on the other hand, contended that the recruitment process was conducted strictly in accordance with the applicable Government Resolutions. It was further submitted that TET is a mandatory eligibility requirement and candidates who qualified TET under

relaxed standards cannot claim migration to the open category. It is urged that permitting such migration would amount to granting a double benefit of reservation. In support of the aforesaid submission, reliance has been placed on the decision of this Court in Pradeep Kumar (supra).

12. We have considered the rival submissions and have perused the record.

RELAXATION IN ELIGIBILITY CRITERIA VS. MERIT DETERMINATION

13. We may now advert to the decisions cited before us. In Jitendra Kumar Singh & Anr. (supra), a two-Judge Bench considered recruitment to the posts of Sub-Inspectors and Platoon Commanders in the PAC, Uttar Pradesh. Under Section 8(1) of the U.P. Public Services (Reservation for SC, ST and OBC) Act, 1994, candidates belonging to SC/ST/OBC were granted fee waiver and age relaxation of five years. The selection comprised a preliminary test, physical test, main written examination, and interview, with uniform standards for all candidates. Reserved category candidates securing higher marks than the last selected candidate were appointed against unreserved vacancies. The challenge by general category candidates-that availing any concession disqualifies a candidate from competing for unreserved vacancies-was rejected. This Court held that concessions granted in fee and age to the candidates belonging to the reserved category merely enable their entry into the zone of consideration and cannot be treated as relaxation in the standard prescribed for qualifying the written examination. It was further held that such relaxation does not affect inter se merit which is to be determined solely on the basis of performance in the written examination and interview.

PERMISSIBILITY OF RELAXATION WITH LIMITED WEIGHTAGE

14. In Vikas Sankhala (supra), this Court upheld relaxation of TET qualifying marks by 10-20% for reserved categories as a valid measure of affirmative action. It was noticed that Circulars issued by the State Government dated 04.03.2002 permitted reserved category candidates to be counted against unreserved category vacancies, if in the selection they had secured more marks than the marks obtained by the last selected unreserved category candidate irrespective of the fact whether or not they had availed of special concessions. It was further held that since TET carried only 20% weightage in the final merit, lower TET scores resulted in proportionately lower weightage. Thus, a level playing field was maintained with no concession in the ultimate selection. Therefore, migration to the unreserved category was held permissible where reserved category candidates were more meritorious. Paras 80, 82 and 83 of the aforesaid decision are extracted below for the facility of reference: -

"80. Having regard to the respective submissions noted above, first aspect that needs consideration is as to whether relaxation in TET pass marks would amount to concession in the recruitment process. The High Court has held to be so on the premise that Para 9(a) dealing with such relaxation in TET marks forms part of the document which relates to the recruitment procedure. It is difficult to

accept this rationale or analogy. Passing of TET examination is a condition of eligibility for appointment as a teacher. It is a necessary qualification without which a candidate is not eligible to be considered for appointment. This was clearly mentioned in the Guidelines/Notification dated 11-2-2011. These Guidelines pertain to conducting of TET; basic features whereof have already been pointed out above. Even Para 9 which provides for concessions that can be given to certain reserved categories deals with "qualifying marks" that is to be obtained in TET examination. Thus, a person who passes TET examination becomes eligible to participate in the selection process as and when such selection process for filling up of the posts of primary teachers is to be undertaken by the State. On the other hand, when it comes to recruitment of teachers, the method for appointment of teachers is altogether different. Here, merit list of successful candidates is to be prepared on the basis of marks obtained under different heads. One of the heads is "marks in TET". So far as this head is concerned, 20% of the marks obtained in TET are to be assigned to each candidate. Therefore, those reserved category candidates who secured lesser marks in TET would naturally get less marks under this head. We would like to demonstrate it with an example: Suppose a reserved category candidate obtains 53 marks in TET, he is treated as having qualified TET. However, when he is considered for selection to the post of primary teacher, in respect of allocation of marks he will get 20% marks for TET. As against him, a general candidate who secures 70 marks in TET shall be awarded 14 marks in recruitment process. Thus, on the basis of TET marks reserved category candidate has not got any advantage while considering his candidature for the post. On the contrary, "level-playing field" is maintained whereby a person securing higher marks in TET, whether belonging to general category or reserved category, is allocated higher marks in respect of 20% of TET marks. Thus, in recruitment process no weightage or concession is given and allocation of 20% of TET marks is applied across the board. Therefore, the High Court is not correct in observing that concession was given in the recruitment process on the basis of relaxation in TET.

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82. In *Jitendra Kumar Singh v. State of U.P.* [*Jitendra Kumar Singh v. State of U.P.*, (2010) 3 SCC 119 : (2010) 1 SCC (L&S) 772] , this Court has very categorically held that relaxations given in educational qualifications, etc. making a person eligible to participate in selection process would not be treated as availing benefits in the recruitment/employment and the benefits envisaged have to be those which have direct relation to recruitment/employment and are relatable to the jovial relationship of employer and employee. It is also clarified that such benefits must occur from and should be post "level-playing field". We would like to reproduce the following discussion from the said judgment touching upon the aforesaid aspects: (SCC pp. 138 & 146-47, paras 48-49 & 75)

"48. In view of the aforesaid facts, we are of the considered opinion that the

submissions of the appellants that relaxation in fee or age would deprive the candidates belonging to the reserved category of an opportunity to compete against the general category candidates is without any foundation. It is to be noticed that the reserved category candidates have not been given any advantage in the selection process. All the candidates had to appear in the same written test and face the same interview. It is therefore quite apparent that the concession in fee and age relaxation only enabled certain candidates belonging to the reserved category to fall within the zone of consideration. The concession in age did not in any manner tilt the balance in favour of the reserved category candidates, in the preparation of final merit/select list.

49. It is permissible for the State in view of Articles 14, 15, 16 and 38 of the Constitution of India to make suitable provisions in law to eradicate the disadvantages of candidates belonging to socially and educationally backward classes. Reservations are a mode to achieve the equality of opportunity guaranteed under Article 16(1) of the Constitution of India. Concessions and relaxations in fee or age provided to the reserved category candidates to enable them to compete and seek benefit of reservation, is merely an aid to reservation. The concessions and relaxations place the candidates on a par with general category candidates. It is only thereafter the merit of the candidates is to be determined without any further concessions in favour of the reserved category candidates.

75. In our opinion, the relaxation in age does not in any manner upset the "level-playing field". It is not possible to accept the submission of the learned counsel for the appellants that relaxation in age or the concession in fee would in any manner be infringement of Article 16(1) of the Constitution of India. These concessions are provisions pertaining to the eligibility of a candidate to appear in the competitive examination. At the time when the concessions are availed, the open competition has not commenced. It commences when all the candidates who fulfil the eligibility conditions, namely, qualifications, age, preliminary written test and physical test are permitted to sit in the main written examination. With age relaxation and the fee concession, the reserved candidates are merely brought within the zone of consideration, so that they can participate in the open competition on merit. Once the candidate participates in the written examination, it is immaterial as to which category, the candidate belongs. All the candidates to be declared eligible had participated in the preliminary test as also in the physical test. It is only thereafter that successful candidates have been permitted to participate in the open competition."

83. It is stated at the cost of repetition that provision of giving 20% marks of TET score was applied to all candidates irrespective of the category to which he/she belongs and, therefore, no concession or relaxation or advantage or benefit was given in this behalf which could disturb the level-playing field and tilt advantage in respect of reserved category candidate. On the

contrary, the reserved category candidates who had secured less marks in TET examination are given lesser marks in the recruitment process on the application of the formula of allocating 20% marks of TET score. Question (iii) is answered accordingly.”

NON-MIGRATION WHERE RELAXATION AFFECTS MERIT

15. In Pradeep Kumar (supra), a three-Judge Bench considered whether candidates qualifying CTET with relaxed marks from the States other than Delhi could compete for unreserved vacancies for recruitment of Special Education Teachers in NCT of Delhi. The essential qualifications prescribed for passing the CTET Test was to secure a minimum of 60% marks in CTET. The respondents who were the candidates belonging to OBC category and were from outside Delhi and neither had OBC certificates issued by NCT of Delhi nor fulfilled the essential eligibility criteria for passing the CTET with 60% marks, were seeking consideration under the open category. A three-Judge Bench of this Court, inter alia held that the respondents did not fulfil the essential eligibility criteria in as much as they neither had the OBC certificates issued by NCT of Delhi nor had passed the CTET with 60% marks. Therefore, they could not be considered against the vacancies of Special Education Teachers of open category. This Court distinguished the decision in Vikas Sankhala (supra) and held that migration of such candidates to open category is impermissible.

PRIMACY OF RECRUITMENT RULES GOVERNING MIGRATION

16. In Union of India & Ors. v. Sajib Roy 2025 SCC OnLine SC 1943, the Staff Selection Commission published a notification for recruitment of Constables (GD) in various para- military forces like BSF, CRPF, ITBP etc. and Rifleman in Assam Rifles. The respondents who belonged to Other Backward Class category, had availed the benefit of age relaxation to participate in the selection process. The respondents claimed consideration against the unreserved category seats on the ground that they had secured more marks than the last selected general category candidate. The Central Government issued Office Memorandum dated 01.07.1998 which provided that only when a relaxed standard is applied in selecting a reserved category candidate, for example, in the age limit, experience, qualification, permitted number of chances in the written examination, such candidates will be counted against reserved vacancies. A two-Judge Bench of this Court, therefore, held that whether a reserved category candidate, who has availed of relaxed standard can migrate to and be recruited against unreserved category seats, depends solely on specific recruitment rules or employment notification.

APPLICABILITY OF TET TO MINORITY INSTITUTIONS

17. Another two-Judge Bench of this Court in Anjuman Ishaat-e-Taleem Trust (supra) dealt with the issue of applicability of TET to minority education institutions and whether qualifying the TET exam is a mandatory prerequisite for recruitment of teachers as well as promotion of teachers. The Court referred the

correctness of the view taken in *Pramati Educational and Cultural Trust (Registered) & Ors. v. Union of India* (2014) 8 SCC 1, which held that TET will not apply to minority educations, for consideration to larger Bench.

EFFECT OF EXPRESS BAR IN RULES ON MIGRATION

18. In *Union of India v. G. Kiran & Ors.* 2026 INSC 15, a two-Judge Bench of this Court dealt with a claim of a reserved category candidate who had availed of relaxation in preliminary examination of Indian Forest Service and was placed higher in merit than unreserved candidate in the final merit list on the basis of marks obtained in main examination and personality test, to be treated as general merit candidate for the purpose of cadre allocation. A Bench of this Court, taking note of Rule 14(ii) of the Examination Rules, 2013 which provided that if a candidate has found place in the merit list without availing relaxed standard, at any stage of the examination, they shall not be adjusted against the reserved vacancy. Therefore, it was held that the respondents who had availed of relaxed standards in the preliminary examination were not entitled to migrate to general category vacancies on the basis of marks obtained in the main examination. However, decision of this Court in *Vikas Sankhala* (supra) was not taken note of.

LEGAL PRINCIPLES

19. From the aforesaid decisions, the following legal principles can be culled out:

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(i) A concession/relaxation in a qualifying examination merely enables entry of a candidate into the zone of consideration and cannot be treated as relaxation in the standard prescribed for qualifying the written examination if such relaxation does not affect the merit which has to be determined solely on the basis of performance in the main examination and the interview, if any.

(ii) A relaxation or concession in the qualifying examination merely creates a level playing field where no concession or relaxation is granted in the ultimate selection and the same is solely made on the basis of inter se merit.

(iii) If a candidate belonging to a reserved category, does not fulfil the essential eligibility criteria prescribed for a selection, he/she cannot be permitted to migrate to an open category.

(iv) Migration of a reserved category candidate who has availed of a concession/relaxation in qualifying examination depends on the Recruitment Rules or the employment notification. If such Recruitment Rules or employment notification permits such migration, the same is permissible.

(v) Such migration shall also be permissible if the Recruitment Rules or employment notification are either silent or do not expressly prohibit it.

ANALYSIS

20. We may now advert to the facts of the present batch of appeals. The NCTE issued guidelines on 11.02.2011, for conducting TET. Para 9 of the aforesaid guidelines prescribes the qualifying marks for passing the TET. Para 9 reads as under: -

“Qualifying marks

9. A person who scores 60% or more in the TET exam will be considered as TET pass. School managements (Government, local bodies, government aided and unaided)

(a) may consider giving concessions to persons belonging to SC/ST, OBC, differently abled persons, etc., in accordance with their extant reservation policy;

(b) should give weightage to the TET scores in the recruitment process; however, qualifying the TET would not confer a right on any person for recruitment/employment as it is only one of the eligibility criteria for appointment.”

The qualifying marks for passing the TET for candidates belonging to general categories, were fixed at 60%. However, the State Government, Local Bodies, Government aided and unaided institutions were granted the liberty to grant concessions to persons belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes and differently abled persons etc. in accordance with extant reservation policy. Thus, relaxation in TET marks is expressly permitted by NCTE.

21. The Government of Maharashtra under the authority granted to it by NCTE guidelines on 13.02.2013, passed a resolution for granting relaxation in qualifying criteria in TET to reserved category candidates. Clause 3 of the aforesaid Resolution reads as under: -

“3. Relaxation in Eligibility Percentage:

A relaxation of 5% in the minimum qualifying marks will be provided to candidates belonging to Scheduled Castes (SC), Scheduled Tribes (ST), Denotified and Nomadic Tribes (DNT), Other Backward Classes (OBC), Persons with Disabilities (PwD), and other specified categories.”

22. Another Government Resolution dated 23.08.2013, was issued by Government of Maharashtra regarding determination of procedure for TET. Clause 7 of the aforesaid Resolution also provides for relaxation in qualifying criteria and reads as under: -

“7. Candidates securing a minimum of 60% marks in the test will be considered as having passed. For candidates - belonging to Scheduled Castes (SC). Scheduled Tribes (ST), Denotified and Nomadic Tribes (DNT), Special Backward Classes (SBC), Other Backward Classes (OBC), and Persons with Disabilities (PwD), the minimum qualifying marks will be 55%.”

Thus, it is evident that the minimum qualifying marks for candidates belonging to Scheduled Castes (SC), Scheduled Tribes (ST), Denotified and Nomadic Tribes (DNT), Other Backward Classes (OBC), Persons with Disabilities (PwD), and other specified categories for passing the TET is 55%.

23. Thereafter, Government of Maharashtra issued another resolution dated 23.06.2017, for establishing a transparent process for recruitment of teachers in government managed schools in the State through the computerized system i.e., PORTAL for Visible to All Teacher Recruitment. Clause 7 of the aforesaid resolution prescribes the eligibility for Aptitude Test which is extracted below:

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"7.Eligibility for the Aptitude Test:

For teacher positions from Class 1 to Class 8, candidates possessing the educational and professional qualifications prescribed under the Maharashtra Private Schools (Conditions of Service) Rules, 1981, and who have cleared the Teacher Eligibility Test (TET), will be eligible for the aptitude test. For teacher positions from Class 9 to Class 12, candidates possessing the educational and professional qualifications prescribed under the said rules will be eligible for the examination."

24. The Government of Maharashtra passed yet another resolution dated 07.02.2019, regarding establishment of transparent process for the recruitment of teachers in government-managed schools in the State. The relevant extract of the aforesaid resolution reads as under: -

"Government Resolution: In all local self- government institutions and private management-aided, partially aided, non- aided, and eligible-for-aid primary, upper primary, secondary, higher secondary schools, night schools, as well as government and aided teacher training colleges (D.L.Ed. Colleges) in the state, while filling vacant teaching positions, all candidates shall be given an equal opportunity for selection. To ensure the selection of high-quality candidates for the position of Education Servant, the recruitment of Education Servants will be based on the marks obtained in the "Eligibility and Aptitude Test." However, private educational institutions will make the final selection of Education Servants from among the candidates who have secured the highest marks in the Eligibility and Aptitude Test, based on an interview.

2. The Government Resolutions dated 30.04.2008 and 16.12.2009, regarding the recruitment of teachers in schools under local self-government institutions through the Centralized Recruitment Pre-Selection Test, as well as the Government Resolutions dated 23.06.2017 and 20.06.2018 regarding recruitment through the transparent system, are hereby superseded. Any provisions in previously issued Government Resolutions or circulars that are inconsistent with the present Government Resolution are hereby cancelled."

25. The Commissioner (Education), Government of Maharashtra by a

communication dated 25.02.2024, issued to the Education Officers, commissioners municipal corporations, chief executive officer of zila parishad, chief officer of municipal councils/Nagar Panchayats and Chairman/Secretary of concerned private educational institutions prescribed guidelines for verification of documents for TAIT, 2022 selection list. Para 18 of the aforesaid communication reads as under: -

"18. As per the judgment dated 24/10/2019 in Special Leave Petition No. 11254/2019 by the Honorable Supreme Court of India, New Delhi, if a candidate from a reserved category has availed of relaxation in eligibility criteria to qualify for the examination, such a candidate shall be eligible for selection under their original category. However, if a reserved category candidate has qualified without availing of any relaxation and is eligible for selection under the open category based on the final merit evaluation, they may be included in the open category. Accordingly, candidates from reserved categories who availed of relaxation in the Teacher Eligibility Test have been considered eligible for selection under their respective categories, while reserved category candidates who did not avail of any relaxation have been considered eligible for selection under the open category based on their position in the merit list. Kindly note this."

26. Paras 6 and 7 of Teacher Recruitment Notification dated 26.02.2024, reads as under: -

"6. In the context of the following matter, the facts are as follows: In the Special Leave Petition No. 11254/2019 filed before the Honorable Supreme Court, New Delhi, in Civil Appeal No. 8259/2019, the judgment delivered on 24/10/2019 states that if a candidate belonging to a reserved category has availed the benefit of relaxation in eligibility criteria provided for that particular reserved category, such a candidate is not eligible for consideration in the unreserved (open) category.

7. The Government of India's memorandums dated 01/07/1998 and 04/04/2018 also stipulate that if a candidate has availed of relaxation, they cannot be considered for the open category. However, if a reserved category candidate qualifies on merit without availing of any relaxation, they can be considered for the open category. In various recruitments of the State Government, such as Talathi recruitment and recruitments for various posts in the Rural Development Department, it is provided that if a candidate from a reserved category qualifies for the open category without availing relaxation in age limit or other educational and professional qualifications, they can be considered for selection in the open category; otherwise, they shall be considered for selection in their respective reserved category. These and other prevailing provisions have been taken into consideration. Since TET is a qualifying examination for this teacher recruitment, if any candidate has passed the TET by availing relaxation, even if they have scored higher marks in the TAIT examination, they have been included in their respective reserved category as

per the various court judgments and government orders. Therefore, the difference in the cut-off marks is visible, but it is entirely lawful.”

27. Clause 9 of the Guidelines issued by NCTE dated 11.02.2011, for conducting TET, itself empowers the State Government to provide concession to persons belonging to reserved categories and differently abled persons. The State Government on 13.02.2013 has passed a Resolution. Clauses 1 and 2 of the aforesaid Resolution prescribe the educational and professional qualifications for teachers and passing of TET is mandatory. Clause 3 thereof only provides relaxation to the extent of 5% for the candidate belonging to reserved category and persons with disability for passing TET. A candidate belonging to reserved category must have an educational and professional qualification like any other candidate for appearing in TET and only relaxation which has been granted is in respect of qualifying marks to the extent of 5%. Thus, a candidate belonging to the general category has to secure 60% marks to pass TET whereas a candidate belonging to the reserved category or a differently abled person has to secure 55% marks.

28. The Government of Maharashtra by Resolution dated 07.02.2019 has provided that selection list will be based on the marks in TAIT. Therefore, it is axiomatic that relaxation in one of the conditions of securing 60% marks in qualifying examination i.e. TET only enables the reserved category candidates to participate in the main examination i.e. TAIT. Such relaxation only creates a level playing field. The inter se merit for appointment has to be determined solely on the basis of the performance in the main examination i.e. TAIT. No relaxation or concession has been granted to reserved category candidates in the main examination i.e. TAIT and their merit has been evaluated at par with general category candidates.

29. It is pertinent to note that MSCE issued a notification dated 31.01.2023 for conducting TAIT-2022, online examination between 22.02.2023 to 03.03.2023. The State Government has not prescribed any prohibition with regard to migration of such reserved category candidates who have secured more marks than the general category candidates to the open category. However, the Commissioner (Education), Government of Maharashtra issued a communication, on 25.02.2024 i.e., the day on which merit list was published referring to decision of this Court in Pradeep Kumar (supra) and mentioned that candidates from reserved categories who availed of relaxation in the Teacher Eligibility Test have been considered eligible for selection under their respective categories, while reserved category candidates who did not avail of any relaxation have been considered eligible for selection under the open category based on their position in the merit list. Similarly, in the instructions dated 26.02.2024 relating to recruitment process and implementation of merit list, similar stand was taken on the basis of the decision of this Court in Pradeep Kumar (supra).

30. It is pertinent to note that the decision of this Court in Pradeep Kumar has no

application to the obtaining factual matrix for the reason that decision in Pradeep Kumar (supra) is an authority for the proposition that in case candidates belonging to reserved category do not fulfil the essential eligibility condition, they cannot be permitted to be appointed against the general vacancies. In Pradeep Kumar (supra), the respondents neither belonged to the Other Backward Category notified by NCT of Delhi nor fulfilled the essential eligibility condition of securing 60% marks in CTET.

31. In the instant case, the requirement of obtaining 60% marks in TET is not an essential eligibility condition as the guidelines issued by the NCTE itself permits such relaxation. Such relaxation only enables a candidate belonging to reserved category to participate in TAIT. The inter se merit of the candidates including the respondents has solely been determined on the basis of performance in TAIT. Therefore, the Commissioner (Education), Government of Maharashtra erred in placing reliance on the decision of this Court in Pradeep Kumar (supra) and in issuing the consequential directions for preparation of the merit list. The Commissioner (Education) ought to have appreciated that Office Memorandum dated 04.04.2018 issued by Government of India (Ministry of Personnel, Public Grievances and Pension) applies in direct recruitments to Central Government jobs and services and, therefore, could not have been relied upon. The High Court also erred in placing reliance on the decision of this Court in Pradeep Kumar (supra).

32. The appellants who admittedly are more meritorious than the last selected candidate under the general category, cannot be excluded from consideration under the general category, in the absence of any express prohibition in the Recruitment Rules/notification. The relaxation in qualifying criteria only affects eligibility and not merit and migration is permissible in the absence of any prohibition. The decisions of this Court in Pradeep Kumar (supra), Union of India & Ors. v. Sajib Roy (supra) and Union of India v. G. Kiran & Ors. (supra) have no application to the obtaining factual matrix of these appeals, whereas, decisions of this Court in Jitendra Kumar Singh (supra) and Vikas Sankhala (supra) apply to the facts of these appeals. The appellants are entitled to migrate to general category.

CONCLUSION

33. For the foregoing reasons, impugned judgment dated 14.02.2025, is quashed and set aside. The respondents shall include in the merit list, those appellants who have secured marks higher than the last selected candidate in the general category.

34. The case of the petitioners in various Interlocutory Applications, namely I.A. Nos.271407/2026, 61615/2026, 52532/2026, 271407/2025 and 6309/2026 filed in SLP (C) Nos. 14517/2025, 14521, 14529-14530, 14532-14533/2025 and 14517-14539/2025 respectively, filed for impleadment are identical to the appellants. Therefore, the petitioners in the aforesaid impleadment applications

are impleaded as appellants in these appeals. The applications for impleadments are allowed.

35. Accordingly, the appeals are allowed. There shall be no order as to costs.