
(2013) 04 DEL CK 0202

In the Delhi High Court

Case No : Writ Petition (C) No. 2544 of 2013 and CM No's. 4818-19 of 2013

Ruchika Arora and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 22-04-2013

Acts Referred:

Right of Children to Free and Compulsory Education Act, 2009 — Section 23(1)

Citation : (2013) 04 DEL CK 0202

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : Rajender Yadav, for the Appellant; Abha Malhotra, for R-1, Ms. Mini Pushkarna for MCD/R-4 and Mr. R.K. Singh, Advocate for R-5 (NCERT), for the Respondent

Final Decision : Dismissed

Judgement

Valmiki J Mehta, J.—This writ petition is filed by 34 persons. Irrespective of prayer clauses in the writ petition, what the petitioners effectively claim is that they should be held entitled to appear in the examination and thereafter get appointed as Special Education Teachers with the Government of National Capital Territory of Delhi. Applicants, as per the advertisement number 1/13 (which is filed as Annexure P-2 to the writ petition) for appointment as a Special Education Teacher in Directorate of Education, besides having the qualification of being a graduate with B.Ed. (Special Education), must also have passed the Central Teacher Eligibility Test (CTET) conducted by CBSE. Petitioners are the aspirants for the advertised posts.

2. The requirement of teachers, holding the other qualification, of clearing the CTET Test conducted by CBSE, was as to bring about better education standards. Powers were accordingly exercised by the appropriate authority from time to time under the Right of Children to Free and Compulsory Education Act, 2009. The National Council for Teacher Education vide its circular dated 11.2.2011 has issued the guidelines for conducting Teacher Eligibility Tests under the Right of

Children to Free and Compulsory Education Act, 2009. CTET examinations are accordingly being conducted for the teachers.

3. Petitioners admittedly do not have the CTET qualification. They have not appeared for the CTET examination, and thus do not have the CTET qualification. The petitioners yet claim that they should be entitled to apply for and seek appointment pursuant to the Advertisement No. 1/13 (Annexure P-2) issued by the Government of National Capital Territory of Delhi.

4. To seek the relief of appearing in the exam without CTET qualification great stress is laid on behalf of the petitioners on the following aspects:-

(i) The circular dated 11.1.2012 issued by the Rehabilitation Council of India giving the qualifications for appointment of Special Education Teachers not requiring CTET qualification.

(ii) The fact that there is lack of Special Education Teachers who are to be appointed for the special children.

(iii) CTET qualification is required only for languages, social studies, mathematics, science etc etc and therefore, the CTET qualification is not required for appointment as special teachers.

(iv) There is similarity in the subjects which have been qualified by the petitioners when compared with the subjects in the CTET exam to be conducted, and therefore, it is claimed that once there is similarity in subjects, petitioners are entitled to seek employment without obtaining CTET qualification.

5. In my opinion, the writ petition is clearly misconceived for the reason that this Court cannot sit in the place of the appropriate authority which decides qualifications for being employed as teachers. In the present case, so far as the employer is concerned, being the National Capital Territory of Delhi, it has quite clearly been prescribed in the advertisement that the Special Education Teachers must have CTET qualification. I do not think that there is any illegality or absurdity in any employer asking that to seek appointment/employment as a teacher, he/she must have CTET qualification, and which qualification was to bring about a higher standard of education. The circular dated 11.1.2012 of the Rehabilitation Council of India does not in any manner support the petitioners' case inasmuch as though the qualifications with respect to teachers of different classes have been specified in the said circular (which is filed as Annexure P-7), however, the said circular begins with the expression "minimum requirement" i.e. the requirements as mentioned for appointment as Special Education Teachers must consist of at least those qualifications which are specified in the circular dated 11.1.2012 i.e. it does not mean that any employer cannot insist that teachers must have additional CTET qualification. Therefore, the contention of the petitioners that the petitioners are entitled to sit in the examination and seek appointment without CTET qualification is misconceived and rejected.

6. So far as the issue of there not being adequate numbers of Special Education

Teachers is concerned, first of all I cannot believe such a self serving averment that there are not enough Special Education Teachers having CTET qualifications because there is no basis on facts and documents to substantiate the same. In my opinion, this is an issue which the appropriate authorities will consider, including the authorities which are seeking employment for the Special Education Teachers. However, Courts cannot interfere in matters, merely on presumptive issues of there not existing adequate number of teachers.

7. Counsel for the petitioner placed reliance on an order dated 16.9.2009 in W.P. (C) No. 6771/2008 that there are not enough qualified Special Education Teachers, however, that order was passed in the year 2009 and today we are in 2013. Also, we cannot take observations made in an order out of context, specially, the writ petition being W.P.(C) No. 6771/2008 was towards various larger issues, and the said writ petition was a public interest litigation on various aspects of education in Delhi.

8. That takes us to the argument urged on behalf of the petitioner that CTET qualifications are only required for teaching languages, social studies, mathematics, science, etc etc and not with respect to Special Education Teachers.

For this purpose, the following portion of the notification dated 29.7.2011 issued by the appropriate authority u/s 23(1) of Right of Children to Free and Compulsory Education Act, 2009 is relied upon:-

(IV) For para 5 of the Principal Notification, the following shall be substituted, namely:-

5.(a) Teacher appointed after the date of this notification in certain cases:-

Where an appropriate Government or local authority or a school has issued an advertisement to initiate the process of appointment of teachers prior to the date of this Notification, such appointments may be made in accordance with the NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 (as amended from time to time).

(b) The minimum qualification norms referred to in this Notification apply to teachers of Languages, Social Studies, Mathematics, Science, etc. In respect of teachers for Physical Education, the minimum qualification norms for Physical Education teachers referred to in NCTE Regulations dated 3rd November, 2001 (as amended from time to time) shall be applicable. For teachers of Art Education, Craft Education, Home Science, Work Education, etc. the existing eligibility norms prescribed by the State Governments and other school managements shall be applicable till such time the NCTE lays down the minimum qualifications in respect of such teachers.

9. I am unable to agree with this argument urged on behalf of the petitioners because after the subjects which are stated, there is an expression "etc". Also, in the earlier part of the notification with respect to classes VI to VIII (and to which classes petitioners seek appointment as teachers for teaching as per the

statement made before me by the counsel for the petitioners) besides other qualifications of graduation and having B.Ed degree, there is a requirement of passing in the Teacher Eligibility Test and which reads as under:-

I. (ii) Class VI-VIII

(a) Graduation and 2-year Diploma in Elementary Education (by whatever name known)

OR

Graduation with at least 50% marks and I-year Bachelor in Education (B.Ed.)

OR

Graduation with at least 45% marks and 1-year Bachelor in Education (B.Ed.), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor in Elementary Education (B.El.Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year B.A./ B.Sc. or B.A. Ed./B.Sc.Ed.

OR

Graduation with at least 50% marks and 1-year B.Ed. (Special Education)

AND

(b) Pass in Teach Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

10. That takes us to the final argument urged on behalf of the petitioners that petitioners have passed subjects which are similar to the CTET qualification, and therefore, the petitioners should be taken as having CTET qualification. Even this argument is misconceived because it is not for this Court to decide what should be the subjects for different courses and how should there be parity between certain courses/subjects, and further as to what should be qualifications which are required before a person is appointed as a teacher in the school. All these are aspects which specialized bodies consider, the legislature thereafter legislates, and the executive which thereafter implements the legislative Acts. This Court as already stated above is ill-equipped to go into these aspects. In view of the above, there is no merit in the petition, which is accordingly dismissed, leaving the parties to bear their own costs.