

(1995) 08 BOM CK 0012

In the Bombay High Court

Case No : Writ Petition No's. 2275, 2278, 2280, 1116, 1106, 1105, 2300, 659, 3111, 3108, 1823, 2161, 2162, 2163, 2164, 2165, 2583, 2740, 2741, 2767, 2768, 2771, 2772, 2773, 2824, 3089, 3094, 3095, 3097, 3098, 3099, 3102, 3092, 3621, 3641, 3644, 3685, 3698, 3700, 3

Sanjay Mutha

APPELLANT

Vs

The Director, Maharashtra Educational Research and Training
Institute and Another

RESPONDENT

Date of Decision : 11-08-1995

Acts Referred:

Constitution of India, 1950 — Article 14, 15, 16, 226
Evidence Act, 1872 — Section 115

Citation : (1996) 1 BomCR 656 : (1995) 2 MhLj 824

Hon'ble Judges : S.G. Mutalik, J;B.N. Deshmukh, J

Bench : Division Bench

Advocate : Sunil A. Kulkarni, S.V. Chandole, N.R. Salunke, R.R. Suryawanshi, S.D. Dhongade, Kiran Dantal, N.K. Kakade, C.K. Shinde, S.L. Beedkar, S.B. Kulkarni, V.M. Kendre, V.G. Sakolkar, N.B. Patil, A.S. Golegaonkar, D.R. Shelke, P.G. Gunale, Vijay Sharma and Smita Deshpande, for the Appellant; P.G. Godhangaonkar, A.G.P. and P.B. Deo, for the Respondent

Judgement

B.N. Deshmukh, J.—Rule in all the petitions, returnable forthwith. The learned A.G.P. waives service on behalf of the concerned respondents.

2. These petitions raise important point of law and affect large number of Assistant Teachers teaching in different primary schools. The petitioners in all these petitions are appointed as Assistant Teachers in different primary schools. One of the conditions mentioned at the time of appointment is that they have to obtain D.Ed. qualification within 5 years of their appointments. In all these petitions, at the time of appointments, these Assistant Teachers had not obtained D.Ed. qualification. They were required to obtain D.Ed. qualification within five years; otherwise, their services were made liable to be terminated. In almost all the petitions, the petitioners, who were appointed as Assistant Teachers, were

granted approval by the Education Department, and in the remaining cases, by the competent authorities constituted in Municipal Councils, etc. After allowing the candidates to be appointed as Assistant Teachers without D.Ed. qualification, in the primary schools, the Government had introduced a scheme, known as Postal (Correspondence) D.Ed. Course. There is also a regular D.Ed. Course, to which the candidates can seek admission. The regular D.Ed. Course is available to the candidates, who are not in service along with the candidates who are in service. But the Correspondence D.Ed. Course is provided for only in respect of the teachers, who are already in service appointed by the recognised primary schools; and whose services are approved by the authorities of the Education Department. These petitions are filed by the Assistant Teachers, who are teaching in primary schools for over number of years; and, according to them, they are also eligible qua experience wise to get admission to Correspondence D.Ed. Course this year also, as the institutions in which they are serving are recognised institutions for number of years; and not only that, but the services of these petitioners are also approved by the competent authorities, including of Education Department, wherever such approval is required for the appointment of the candidates as Assistant Teachers.

3. The petitioners belong to Open and/or Other Backward Class (O.B.C.) category. None of them belongs to Scheduled Caste (S.C.), Schedule Tribe (S.T.) or Vimukta Jati and Nomadic Tribe (V.J.N.T.) category.

4. The Counsel for the petitioners, Sarvashri Sunil A. Kulkarni, S.V. Ceandole, Mr. Salunke, R.R. Suryawanshi, S.D. Dhongade, Kiran Dantal, N.K. Kakade, C.K. Shinde, S.L. Beedkar, S.B. Kulkarni, V.M. Kondre, V.G. Sakolkar, N.B. Patil, A.S. Golegaonkar, D.R. Shelke, P.G. Gunale, Vijay Sharma and Smt. Smita Deshpande, have contended that the authorities are denying admission to the petitioners to the Correspondence D.Ed. Course and even not accepting the forms for getting admission to the said course. The petitioners were informed by the authorities that this year the Correspondence D.Ed. Course is not available to candidates belonging to open and/or O.B.C. category candidates, "except for those who are teaching in schools located in specified hilly areas". The course is available only in favour of Scheduled Caste, Scheduled Tribe, and Vimukta Jati and Nomadic Tribe category candidates. This departure is made this year only. Till last year, all candidates from all areas belonging to various categories including Open and O.B.C. categories, would get admission to the Correspondence D.Ed. course.

5. It was argued that the departure by admitting the candidates of S.C., S.T. and V.J.N.T. categories only results in discrimination, which is violative of Article 14 of the Constitution of India. The discrimination is alleged to be arbitrary and said to have no nexus with the object sought to be achieved. The discrimination is further said to be unreasonable, having regard to the object, namely, of enabling the in-service assistant teachers in primary schools to obtain D.Ed. qualification.

6. It was further argued that the discrimination is violative of Article 16 of the

Constitution of India also, inasmuch as the Assistant teachers teaching in primary schools, but belonging to S.C., S.T. and V.J.N.T. categories, will be retained in service by allowing them the opportunity of acquiring the qualification of D.Ed. this year; and the services of Assistant teachers belonging to Open and O.B.C. categories will be brought to an end because of non-acquisition of D.Ed. qualification by authorising the managements of the primary schools to terminate their services. The discrimination is, thus, made qua service conditions, which is violative of Article 16 of the Constitution.

7. Our attention is invited to the Schedule which is brought into force for the year 1995-96, in which it is mentioned that, for the year 1995-96, the untrained Assistant teachers in primary schools will be given admission to Correspondence D.Ed. Course in following circumstances only:---

- (1) Such untrained primary Assistant teachers, who are appointed on compassionate basis and whose appointments are approved by the concerned competent authority;
- (2) Such untrained primary Assistant teachers, appointed by the Zilla Parishads, as per Government Orders dated 26th January, 1991 and 13th September, 1993, due to non-availability of trained teachers in inaccessible and hilly areas;
- (3) Such reserved category untrained primary Assistant teachers, who have been appointed for clearing off the backlog of reserved category trained teachers and whose appointments are approved by the competent authority;
- (4) Such untrained primary Assistant teachers who are appointed in private recognised and Government Ashram Schools and whose appointments are approved by the competent authority;
- (5) Such reserved or un-reserved category untrained primary Assistant teachers, who are appointed in the private recognised aided/non-aided primary schools, Zilla Parishad schools, Municipal Council Schools and non-Government Secondary Schools for 5th to 7th standard, of Urdu, Sindhi, Telugu and English Mediums, and whose appointments are approved by the competent authority;
- (6) Such untrained primary Assistant teachers appointed prior to 11-11-1994 in the recognised aided/non-aided primary schools located in hilly and inaccessible areas of the State.

The most controversial clause out of above clauses is Clause (3). This clause keeps the admission to the Correspondence D.Ed. course open, irrespective of any other restriction qua hilly and inaccessible areas, appointment by the Zilla Parishads, etc., and gives opportunity for acquiring D.Ed. qualification by Correspondence Course only in favour of the untrained Assistant teachers of primary schools, who belong to S.C., S.T. and V.J.N.T. categories, on the ground that there is huge backlog of such trained teachers, which required appointment of untrained primary teachers in primary schools from the said three reserved categories in different primary schools in the State. Therefore, the opportunity to

acquire qualification is kept open for the said categories this year also. The candidates falling in Clauses (1) to (3) but appointed just a day prior to the date fixed for making the application for admission to Correspondence D.Ed. course this year will also be eligible to be considered for admission to the said course.

8. The argument in general is that barring hilly and inaccessible areas of the State, the candidates from open and O.B.C. categories (Except S.C., S.T. and V.J.N.T. categories) will not be entitled for admission to Correspondence D.Ed. Course this year in accordance with the above provisions of the said Schedule and on that basis, the authorities have not only not granted admission to several students, who have completed their service of 5 years; but, for the lack of acquisition of D.Ed. qualification, the service of such teachers, belonging to Open and O.B.C. categories, will be brought to an end, merely because the candidates are made ineligible for getting admission to the Correspondence D.Ed. Course.

9. On earlier occasion, when the matter had appeared on Board, this Court had passed interim orders and issued directions to the authorities not to finalise the admissions on or after 5th June, 1995 for the said course for the year 1995-96 and even if the admissions are finalised, then the Course hereafter shall not commence until further orders by this Court. At the time of passing the said interim directions only, it was pointed out that in some cases, not only admissions are finalised, but the course has also commenced. In the interim order dated 7th June, 1995 itself, it is clarified that the said interim order will govern the batches to be commenced after 8th June, 1995 and the order will not effect the course, which has already commenced prior to 8th June, 1995.

10. Shri Godhamgaonkar, and others learned Assistant Government Pleaders, appearing in these petitions, have contended that initially the Correspondence D.Ed. Course was formulated to impart training to the candidates belonging to S.C., S.T. and V.J.N.T. categories only. In view of the backlog as a matter of policy, it was decided to impart D.Ed. training by way of correspondence course only to those reserved categories and the Correspondence D.Ed. Course was never meant for the open or O.B.C. category candidates i.e., other than those belonging to S.C., S.T. and V.J.N.T. categories. For that purpose, our attention was invited to the Resolution dated 4th October, 1973 annexed at Exhibit R-1 in Writ Petition No. 2275 of 1995. The said Resolution speaks of a policy laid down by the State Government and provides that no untrained teacher should be appointed in unreserved vacancies in primary schools after 31-1-1969 and in case of reserved vacancies, if sufficient number of trained teachers are not available to fill in the 34% reserved vacancies, untrained S.S.C. candidates may be selected and appointed as teachers, on specific condition that they will get themselves trained at their own cost within a period of 4 years from the date of their appointment. The revised D.Ed. course for primary teachers has been introduced since June, 1968. The Resolution further provides that it has not been possible for a number of teachers, especially women teachers and teachers from backward areas, to take advantage of the training facilities, due to peculiar

domestic and economic circumstances. The need for providing training facilities to such teachers is acutely felt. The backlog of untrained teachers also needs to be cleared off immediately. The number of in-service untrained teachers will be further increased due to the big programme of providing employment to educated unemployed, under which out of 13011 posts, about 4000 would be manned by untrained S.S.Cs. offering English, Mathematics and Science and passing with 45% aggregate marks. In addition, semi-trained teachers, viz., S.S.C., Jr. P.T.C., S.T.O., T.D., etc., need to be provided with further training facilities. Training of such large number of untrained or semi-trained teachers would be a colossal task. It is, therefore, felt necessary to adopt some non-traditional measures for providing training facilities to these teachers who are already in service. With a view, therefore, to overcome the difficulties of providing training facilities, the Correspondence D.Ed. Course, which is commonly known as Postal D.Ed. Course, is given effect to.

11. Relying on the opening words of the said Resolution, Shri Godhamgaonkar contended that the scheme was meant for the untrained teachers belonging to the reserved categories of S.C., S.T. and V.J.N.T. only. We are unable to appreciate this. The Resolution as a whole will have to be construed and no interpretation can be given effect to by taking out certain sentences out of context. The Resolution, no doubt, speaks of appointments of candidates from open category as against reserved posts for non-availability of trained or untrained candidates from the reserved categories of S.C., S.T. and V.J.N.T., but the Resolution does not stop at that. It further mentions, "....it has not been possible for a number of teachers, especially women teachers and teachers from backward areas, to take advantage of the training facilities, due to peculiar domestic and economic circumstances." In the first part of the Resolution, though there is a reference to the backward classes, in the second part thereof, backward areas are mentioned, with special emphasis on women from the backward areas. The Resolution further clarifies in respect of teachers from backward areas that they could not avail of the facilities obtaining, due to peculiar domestic and economical circumstances. Thereafter again, it is provided that the backlog of untrained teachers also needs to be cleared off immediately. The backlog mentioned here is of untrained teachers and not of untrained teachers belonging to backward classes. The backlog of untrained teachers has a reference, therefore, not only qua the backward classes, but has a reference also to the backward areas, including woman in the entire State. Lastly, having regard to the programme of providing employment to the educated unemployed, it is mentioned in the Resolution that the number of in-service untrained primary teachers will be in all 13011, out of which only 4000 would be untrained S.S.Cs. offering English, Mathematics and Science and passing with 45% aggregate marks. It further takes into consideration, in addition to above, the semi-trained teachers, viz., S.S.C., Jr. P.T.C., S.T.C., T.D., etc., and speaks of making provisions with regard to their further training facility; and also notes that training of such large number of untrained or semi-trained teachers would be a colossal task.

12. If we consider the entire Resolution in its proper prospective, we have no doubt that the reference to backward classes was not exclusive but was along with backward areas and women. The scheme cannot, therefore, be said to have been formulated only in favour of reserved categories of S.C., S.T. and V.J.N.T. The stock of the total situation was taken; the fact of appointment of teachers without training was also taken into consideration, along with the fact of those teachers who were already in the Department without training. Because of the programme of providing employment to educated unemployed, a large number of candidates, would be untrained, belonging to each category of the people, will be provided with employment as Assistant Teachers. For all these factors, the Correspondence D.Ed. Course was introduced as the facility by way of regular D.Ed. Course would not have given proper results. It seems that the inadequacy of facility of regular D.Ed. Course, having regard to the resources, was taken into consideration, and to meet the colossal task of training large number of untrained or semi-trained teachers, the Correspondence D.Ed. Course was introduced and undertaken by providing a separate scheme. It is, therefore, not possible to accept that the course from its inception was meant only to impart training to the reserved categories of S.C., S.T. and V.J.N.T.

13. If that were so, then the authorities in the Education Department would not have proceeded to grant approval to the untrained teachers appointed as against clear vacancies meant for open and O.B.C. categories. In the appointment letters of the petitioners and several others, as well as in the letters of approval given by the Education Department, it is mentioned that the appointment of the petitioners and others is subject to acquiring the qualification of D.Ed. within five years of their appointment. We may refer to the appointment of the petitioner in Writ Petition No. 3739 of 1995. This petitioner is appointed on 29-12-1993. In the appointment letter produced at page 14 of the Paper Book of this petition, one of the conditions of the appointment is that the appointment is subject to acquiring the qualification of D.Ed. by the candidate within five years. Therefore, while approving the appointments of such teachers, the authorities have made the condition to acquire the qualification of D.Ed. within five years from the appointment. In the present case, the appointment of the petitioner is made in the year 1993. The five year's period will be coming to an end in 1998. The petitioner has time to acquire qualification of D.Ed. by the year 1998. The Correspondence D.Ed. Course was brought into existence, because it has not been possible for all the candidates to acquire the said qualification through regular D.Ed. Course. There is no change in that situation also. It is common knowledge that there are thousands of primary schools, in the State, having only one teacher, i.e., one teacher is required to teach all the classes and all the subjects. The Government is making every effort to see that such schools get additional teachers, at least, one teacher's schools are brought on par with two teacher's schools. The possibility and the scope of providing employment to educated unemployed is increased manifold than what was so in 1973.

14. The argument regarding the policy laid down by the State Government in

favour of the reserved categories of S.C., S.T. and V.J.N.T. only cannot be accepted for other reasons also. It is admitted position that till last year, many untrained teachers from Open and O.B.C. categories spread over the entire State and from all regions were granted admission to the Correspondence D.Ed. Course. This procedure to admit candidates belonging to Open and O.B.C. categories was followed since the inception of the said Course till last year. The departure is made for the first time in the year 1995 and tried to be supported on the basis of certain statements appearing in the policy Resolution dated 4th October, 1973. If that was the policy of the State Government, then the Government authorities in the Education Department would not have granted approval to the services of the persons belonging to Open and O.B.C. categories and, especially in the cases of those who are untrained. Not only the condition consistently is laid down to acquire the qualification of D.Ed. within five years, but the admissions are given for those untrained teachers in the Correspondence D.Ed. Course, which indicates that the authorities of the State Government are now estopped from saying that it was the policy of the State Government to provide the scheme of Correspondence D.Ed. Course only in favour of those reserved categories of S.C., S.T. and V.J.N.T. As we have already pointed out, such policy cannot be spelt out from the Resolution dated 4th October, 1973. Even assuming that there was such a policy in the undisclosed mind of the State Government, but the disclosed mind has to be worked out on the basis of the admissions granted to the candidates belonging to Open and O.B.C. Categories to the said course. The conduct of the officers at different levels in giving approvals to the appointments of Open and O.B.C. category untrained primary teachers as against the alleged policy of not making appointment after 31st January, 1969 is sufficient to repeal the argument of the learned A.G.P. The reference to the date, 31st January, 1969, is, therefore, to a factual situation and has nothing to do with the policy. In fact, such appointments were not only granted approval, but such teachers were also allowed to acquire training, by way of Correspondence D.Ed. Course.

15. If the interpretation has as argued by Shri Godhamgaonkar is to be accepted now in the year 1995, it will result in discrimination not only between the Open and O.B.C. category candidates and the S.C., S.T. and V.J.N.T. category candidates, but amongst Open category and O.B.C. category candidates inter se also. In spite of this Resolution dated 4th October, 1973, the course was thrown open to the candidates belonging to the Open category and O.B.C. category candidates, and now, because of the alleged policy, the Open category and O.B.C. category candidates will be denied benefit of admission, as against those who have already been admitted and have acquired the qualification of D.Ed. under the said scheme. It is, therefore, not possible to accept the contention of Shri Godhamgaonkar on the ground of the policy from the inception being to give admission only in favour of S.C., S.T. and V.J.N.T. category candidates.

16. If we go through the other Resolution, on record, which is dated 20th April, 1989, in this connection, there is nothing to indicate about such a policy.

17. Articles 14, 15 and 16 of the Constitution deal with right to equality and of reasonable restrictions. Admittedly, having regard to the resources of the State, even accepting that there are only 3060 seats available to which the candidates seeking admission to the Correspondence D.Ed. Course can be admitted every year, yet, in view of the policy of the State Government laid down in the schedule for admission this year, all the 3060 seats in the course are reserved in favour of S.C., S.T. and V.J.N.T. categories. The other candidates are totally excluded from the admission to the Correspondence D.Ed. Course. Such 100 per cent reservation in the matter of acquiring qualification is purely and patently arbitrary and has no nexus with the object sought to be achieved by the policy Resolution dated 4th October, 1973. In the said Resolution, the broad policy of the State Government was to give employment even to untrained persons and to allow them to acquire qualification within five years. Acquisition of the qualification within five years is imposed and is a must except in certain cases, such as hilly tracts and inaccessible areas, etc. The policy is to impart training to untrained teachers by way of Correspondence D.Ed. Course. Reading of the Resolution as a whole indicates that the Government was aware of the fact that there are untrained teachers both from Open and O.B.C. categories as well as in the reserved categories of Scheduled Caste, Schedule Tribe and V.J.N.T. The purpose of introducing the Correspondence D.Ed. Course is to impart training to untrained teachers. The purpose was not to train untrained teachers from any particular category only; but the scheme was formulated to give training to all such untrained teachers, who were in service or who would be employed thereafter also, having regard to the large number of employment opportunities, irrespectively of the fact of any particular teacher belonging to any particular category. The discrimination so made, therefore, has no nexus with the object sought to be achieved.

18. Our attention was also invited to other types of discrimination made in the schedule. So far as the Urdu, Sindhi, Telugu and English Medium Schools are concerned, irrespectively of the fact where the schools are located, all the teachers serving in the said schools, whether from open category or reserved category, are made eligible to get admission to the Correspondence D.Ed. Course this year also. The argument is that the discrimination is made on the basis of medium of instruction. If the school is imparting education with Urdu, Sindhi, Telugu or English Medium, then the untrained open category teacher from such school will be entitled to get admission to the Correspondence D.Ed. Course, while the candidates from Marathi, Hindi or Gujarathi Medium Schools will not be eligible to get admission to the said course. It is common knowledge that apart from large number of Marathi Medium Primary Schools, there are many Gujarathi and Hindi Medium Schools in the State, but the teachers are discriminated on the ground of medium of school, in the matter of admission to the said course, which has also no nexus with the object sought to be achieved.

19. It was argued that in Urdu, Sindhi, Telugu and English Medium Schools, there are large number of Open and O.B.C. category untrained teachers as compared

to the untrained teachers from S.C., S.T. and V.J.N.T. categories. Though no statistics was made available to us, but the backlog S.C., S.T. and V.J.N.T. categories is common to all medium schools, including in Urdu, Sindhi, Telugu and English Medium Schools. The cover of backlog, which is taken in denying admission to the candidates from Marathi, Hindi and Gujarathi Medium Schools, is, therefore, given a go-bye so far as Urdu, Sindhi, Telugu and English Medium Schools are concerned. The discrimination so made is, therefore, violative of Articles 14, 15 and 16 of the Constitution, as the opportunity of acquiring D.Ed. qualification, if denied, will ultimately result in loss of the service.

20. It was contended that because of the backlog of S.C., S.T. and V.J.N.T. category teachers the Government has to adopt such a policy. As already noted, such a backlog was in the mind at the time of the formulation of the scheme, but that was not the only backlog in the mind, but there was backlog qua backward classes, as well as backward areas and women also in the entire State. In the name of the backlog, of the trained teachers belonging to S.C., S.T. and V.J.N.T. category, the untrained teachers serving for several years in several institutions from Open and O.B.C. categories are denied opportunity to acquire qualification.

21. Shri Godhamgaonkar, learned A.G.P., on instructions, contended that no equitable relief can be considered in favour of those untrained teachers from Open and O.B.C. categories, who are appointed in a post meant for S.C., S.T. and V.J.N.T. category, even though the approval was granted by the authorities of the Education Department to the said candidates, as, according to him, the Education Department is thinking of initiating action against those officers. We are afraid that equitable relief cannot be denied only on the ground of approval. Shri Godhamgaonkar was right if it was merely a question of approval granted to the services of the petitioners, but, in the past, not only approval was granted, but the admission to Correspondence D.Ed. Course was also granted to such candidates. Reading the Resolution dated 4th October, 1973 and the modifications made in the scheme from time to time indicate that it was never the intention of the State Government to provide the Correspondence D.Ed. Course only for the three reserved categories, but the said course was thought of because of large number of untrained teachers, who were rightly employed and whose services were approved by the Education Department even prior to the formulation of the said course in the year 1973. The scheme was basically introduced not only for the teachers appointed prior to 1973, but was introduced for those teachers who were appointed even after 1973.

22. We are required to consider equitable as well as promissory estoppels in favour of the petitioners, because they opted for the service, as it was represented to them at the time of their appointment that they are employed inspite of being untrained, as the facilities for obtaining training within 5 years is made available to them. If the facility is closed down qua the Open and O.B.C. category candidates this year, when such facility is kept open in favour of other categories, viz., S.C., S.T. and V.J.N.T. categories, the Assistant teachers, who

are in service and are serving for last so many years will be thrown out of employment, as their service will be terminated for not acquiring the qualification of D.Ed.

23. It is common knowledge that the posts of primary teachers in those schools are manned by the economically weaker sections of the society. They are required to serve both in rural and urban areas. The protection, which is afforded by the State in favour of the S.C., S.T. and V.J.N.T. category teachers, is, therefore, required to be extended to those untrained teachers from Open and O.B.C. category also. As the denial will result in loss of employment to all those untrained teachers, for no fault of theirs, the facility which was available for last several years could not be abruptly closed down. If the petitioner and others had known that the facility if closed to them while keeping it open to the reserved categories of S.C., S.T. and V.J.N.T. such candidates would have obtained D.Ed. qualification initially and got the training which was required for entry and continuation in service. The abrupt closure of the facility is, therefore, unreasonable and has no nexus with the object sought to be achieved.

24. The Correspondence D.Ed. Course is said to have been brought into effect with a broad objective of imparting training, having regard to the employment to the educated unemployed. The closure of the course in the midst of the career will be denial of employment facility, rather than enhancing the employment facility. We, therefore, feel that the closure has no nexus with the object sought to be achieved.

25. As we have found that appointments are made even in last year of untrained primary teachers and have been approved by the Education Department, it is desirable that the review of the Correspondence D.Ed. Course qua the number of untrained teachers every year should be taken and the course shall not be closed abruptly overlooking the interests of large number of untrained teachers.

26. There are several petitioners, who had applied for the Correspondence D.Ed. Course right from the year in which they were appointed, but they were not granted admissions, either because of the lack of facility or because of the large number of candidates from the same school willing to complete the said course. The petitioners could not get the qualification of D.Ed. because of the circumstances beyond their control, though all the while they have desired to acquire the qualification. Some of the petitioners have repeatedly applied for admission to the Correspondence D.Ed. Course, but their claims for admission to the said course were denied on one or the other ground, may be for the grounds which are convenient to the authorities and the managements; but the fact remains that the petitioners, who were given opportunity to acquire the qualification within 5 years, were denied such opportunity in the midst, before expiry of 5 year's period.

27. In the result , we direct the authorities to admit the Untrained Primary Assistant Teachers, belonging to Open and O.B.C. categories, to the

Correspondence D.Ed. Course hereafter, by supplying and accepting their forms, if they are otherwise eligible, for the batches which would commence hereafter. We, however, make it clear that this decision will not affect the admissions or the batches which have already commenced before 12th June, 1995. The services of such teachers, who are given appointment on the condition that they will obtain D.Ed. qualification within five years, shall not be brought to an end, merely because they have not obtained the D.Ed. qualification. The opportunity to obtain the D.Ed. qualification should be made available to those teachers and, only on refusal by the concerned teachers to avail of such an opportunity, the question of bringing to an end his service can be considered.

28. Rule in each of the petitions accordingly made absolute. There shall, however, be no order as to costs in the facts and circumstances of the case.