
(2011) 07 UK CK 0052

In the Uttarakhand High Court

Case No : Writ Petition No. 609 of 2011 (S/S)

Shalini Mishra and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 18-07-2011

Acts Referred:

Citation : (2011) 2 UC 1387

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon"ble Sudhanshu Dhulia, J.—Heard Mr. B.S. Parihar, Advocate for the petitioners, Mr. N.P. Sah, Standing Counsel and Mr. Anil Kumar Bisht, Brief Holder for the State of Uttarakhand/respondent no. 1, Ms. Geeta Parihar, Advocate for respondent no. 2 and Mr. Sudhir Singh, Advocate for respondent no. 3.

2. The petitioners in this petition are candidates for an examination known as "Teachers Eligibility Test" (from hereinafter referred to as TET). This is a test being conducted by the State of Uttarakhand, under the guidelines and instructions issued by a central statutory body known as National Council for Teachers Education (from hereinafter referred to as NCTE). As per the guidelines issued by NCTE, certain conditions were laid down for eligibility even to appear in the said examination. One of these conditions was that a person must be a graduate with at least 50 per cent of marks along with B.Ed. degree. Many of the petitioners who did not fulfill this eligibility, primarily the eligibility of having 50 per cent or more marks in the graduation had approached this Court challenging this condition on the ground of arbitrariness and on the ground that it was not having any nexus with the objects sought to be achieved. 2

3. This Court vide order dated 27.5.2011, inter alia, in Writ Petition (S/ S) No. 445 of 2011 Baldev Singh and others Vs. State of Uttarakhand and others on the basis of statement made by the counsel appearing for NCTE had passed an

interim order. Operative portion of the interim order dated 27.5.2011 is reproduced below: "Learned counsel for NCTE also states that he too has got instructions from Regional Director of NCTE that they will not insist on the minimum 50 percent marks as stated in the Notification. On these admitted facts, as an interim measure, Secretary, Education, Uttarakhand Government, Director of Education, Uttarakhand, Dehradun as well as Uttarakhand Vidyalay Shiksha Parishad, Ramnagar, District Nainital are directed to accept the applications from the petitioners and also allow them to appear in the subsequent examination of TET. It is made clear that this liberty or relief granted to the petitioners is only provisional in nature, and will depend upon the final outcome of the writ petition.

learned counsels for the respondents seek three weeks time to file counter affidavit. Time is granted.

Rejoinder affidavits be filed within two weeks thereafter.

List this matter after six weeks.

Let the copy of the order be given today itself.

4. Since some of the above petitions " are filed as Miscellaneous Petitions and remaining as Service Single, the Registry may bracket all these petitions as one i.e. either a Miscellaneous or Service Single to remove all confusions."

5. Consequent to this order, such orders have been passed in many similar matters as well. On the last occasion i.e. on 7.7.2011 a statement was made by the counsel appearing for the State of Uttarakhand that the State of Uttarakhand has now passed an order on 5th July, 2011 bringing certain amendments in the earlier condition imposed by it inasmuch the mandatory condition of having 50 per cent of marks has been reduced to 45 per cent for those who had done their B.Ed. as well as graduation prior to 31st August, 2009. It has further been clarified that the mandatory requirement of 50 per cent for such graduates (having the B.Ed. degree as well) shall only be applicable to those B.Ed. degree holders, who have taken admission in B.Ed. course after 31st August, 2009. A large majority of candidates, who have already approached this Court belong to the above category, who have already been exempted by the State vide order dated 5th July, 2011. As such their writ petitions are liable to be disposed of in terms of order dated 5th July, 2011 which has been produced before this Court by the Standing Counsel for the State.

6. As per the averments made by the petitioners as well the statement made by the counsel for the petitioners, the petitioners in the present writ petition falls in the category to which exemption has already been granted by the State Government vide order dated 5th July, 2011. As such this writ petition is disposed of in terms of order dated 5th July, 2011 with the direction that since the petitioners are covered within the newly amended eligibility condition, they shall be allowed to appear in the examination.