

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 5053 of 2021

1. Lalan Kumar Yadav Son of Baleshwar Yadav, resident of Kala Patti, Phoolparas, District - Madhubani Pin - 847409.
2. Kumar Gaurav, Son of Pramod Kumar, resident of Shakuntala Bhawan, Usha Niwas, Pathak Gachi, Electricity Board, Mokama, Ward No. 2, Mokma, District - Patna, Pin - 803302.
3. Chandan Kumar, Son of Shashi Bhushan Singh, resident of Biman Bhojpur, District - Bhojpur, Pin - 802154.
4. Minesh Kumar Singh, Son of Kapildev Singh, resident of Birju Bigha, P.O. - Meyar, P.S. Silao, District - Nalanda, Pin - 803116.
5. Amiya Bhushan Kumar, Son of Narbadeshwar Pandey, resident of Baradh, Malaur, District - Bhojpur, Pin - 802223.
6. Harsh Kumar, Son of Rabindra Lal, resident of Mansagar, Bhojpur, District - Bhojpur, Pin- 802223.
7. Pankaj Kumar, Son of Ram Bilash Sharma, resident of Village - Ninga, District - Begusarai, Bihar - 851112.
8. Rajesh Kumar, Son of Parmanand Singh, resident of Village - Mahindrapur, Mahendrapur, District - Begusarai, Bihar - 851129.
9. Raju Kumar, Son of Jitendra Singh, resident of ward No. 4, Duman, Lakhisarai, District - Lakhisarai, Pin- 811302.
10. Indushankar Prasad Singh, Son of Arvind Kumar, resident of Village - Lodipur, Pargaon, District - Nalanda, Pin- 803111.
11. Sunil Kumar, Son of Gopalji Prasad, resident of Parsauna, P.O.- Bakulahar Math, Bakulahar, District - West Champaran, Pin- 845449.
12. Pramod Kumar, Son of Shubh Narayan Prasad Kushwaha, resident of Purushotimpur, Ward No. 4, P.O.- Maniyari, Kukuraha, District - West Champaran, Pin - 845451.
13. Sunil Kumar Prasad, Son of Rajeshwar Prasad, resident of Ward No. 1, Samritola, Chanpatiya, District - West Champaran, Pin - 845449.
14. Chandan Kumar, Son of Awadhesh Prasad, resident of Chapriya Tola, Rampurwa, District - West Champaran, Pin - 845306.
15. Dilip Chaudhary, Son of Raghunath Chaudhary, resident of Ward No. 4, Englishiya, Belwa, District - West Champaran, Pin - 845453.
16. Sunil Kumar, Son of Late Rajeshwar Prasad, resident of Ward No. 4, Englishiya, Belwa, District - West Champaran, Pin - 845453.
17. Mritunjay Kumar, Son of Basudev Ray, resident of Chainpura, Deoria, Muzaffarpur, District - Muzaffarpur, Pin - 843120.
18. Vikash Abhinaw, Son of Krishna Bihari Roy, resident of Dharpahari, Muzaffarpur, District - Muzaffarpur, Pin - 843120.
19. Rajesh Kumar, Son of Ram Sagar Thakur, resident of Near Durga Mandir, Gandhi Nagar, Road No. 3, Paigambarpur, Kolhua, District - Muzaffarpur , Pin - 843108.



20. Anuradha Kumari, daughter of Shailendra Kumar Singh, resident of Main Road, Alkapuri, Bhagwanpur, District - Muzaffarpur, Pin - 842001.
21. Pankaj Kumar, Son of Surendra Mishra, resident of Village - Bishambharpur, Muzaffarpur, Jaintpur Estate, District - Muzaffarpur, Pin - 843123.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. Principal Secretary, Education Department, Bihar, Patna.
3. National Council for Teacher Education, New Delhi through its Secretary.
4. Chairperson, National Council for Teacher Education, New Delhi.
5. Secretary, National Council for Teacher Education, New Delhi.
6. The Union of India through N.C.T.E., New Delhi.
7. Rahul Kumar Jha, Son of Lalit Kumar Jha Resident of Village- Baghal, Police Station- Manigachhi, District- Darbhanga.
8. Raushan Kumar Jha, Son of Hare Ram Jha Resident of Village- Kathra, Police Station- Manigachhi, District- Darbhanga.
9. Nand Kumar, Son of Arjun Singh Resident of Village- Bariyarpur, Police Station and District- Sitamarhi.
10. Zeyaul Haque, Son of Id. Mohammad Shah Resident of Village- Jamunbhar, Police Station- Adapur, District- East Champaran.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5922 of 2022

1. Sanjay Kumar, Son of Sahdev Prasad Yadav, Resident of Ward No. 13, Brah Kurva, P.S. Kumar Khand, P.O.-Bhatni Bazar, District-Madhepura.
2. Santosh Kumar Suman, son of Shyam Kishore Yadav, Resident of Village-Srinagar, P.S.-Kumarkhand, P.O.-Srinagar, District-Madhepura.
3. Raju Prasad, son of Harihar Prasad, Resident of Village-Tulasiya, P.S.-Ucha Gawon, P.O.-Sanhe Khas, District-Gopalganj.
4. Raj Kumar, son of Virchandra Mahto, Resident of Village-Nista, P.S.-Alouli, P.O.-Haripur, District-Khariya.
5. Abhay Kumar, son of Chhotelal Yadav, Resident of Village-Madanpur, P.S.-Madhepura, P.O.-Khara, District-Madhepura.
6. Kumar Gopal Gaurav, son of Manohar Prasad Yadav, Resident of Village-Binobagram, P.S.-Jankinagar, P.O.-Abhayram Chakla, District-Purnea.
7. Mahesh Kumar Yadav, son of Late Rameshwar Yadav, Resident of Village-Kumbhi, P.S.-Cheriya Bariyarpur, P.O. Kumbhi, District-Beghsaras.
8. Mukund Kumar Goswami, son of Deonand Goswami, Resident of Village-Parwankemathia, P.S.-Gopalganj, P.O.-Parwan, District-Siwan.



9. Sudhir Kumar, son of Madan Choudhary, Resident of Ward No. Nawalpur, P.S.-Nawalpur, P.O.-Nawalpur, District-West Champaran.
10. Sujeet Kumar Jha, son of Garib Jha, Resident of Village-Sirsi, P.S.-Nanpur Sirsi, P.O.-Sirsi, District-Sitamarhi.
11. Arun Kumar Mehta, son of Bisheswar Mehta, Resident of Village-Sahewan, P.S.-Bhagwanpur, P.O. Ratanpur, District-Supant.
12. Raman Kumar, son of Kapleshwar Prasad Yadav, Resident of Village-Parsa, P.S. Shankarpur, P.O.-Parsa, District-Madhepura.
13. Shashi Bhushan Kumar, son of Sitaram Sah, Resident of Village-Shankarpur, P.S. Shankarpur, P.O.-Shankar, District-Madhepura.
14. Monu Mani Tiwari, Son of Chuman Mani Tiwari, Resident of Ward No. 8, Barwal, P.S.-Sidhani, P.O.-Narajpur, District-West Champaran.
15. Rakesh Kumar, son of Janardan Singh, Resident of Village-Panditpura, P.S.-Dinara, P.O.-Akodha, District-Rohtas.
16. Jay Krishan Kumar Choudhary, son of Nandlal Choudhary, Resident of Village-Ward No. 8 Dhir Bajar, P.S.-Banmankhi, P.O.-Banmani, District-Purnea.
17. Biresh Yadav, son of Dalsingar Yadav, Resident of Village-Tulasiyan, P.S.-Ucha Uraown, P.O.-Ucha Uraown, District-Gopalganj.
18. Pardeep Kumar Sushwaha, son of Harihar, Resident of Village-Tulsiyan, P.S.-Uchka Gawwon, P.O.-Sankhe Khas, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Education Department, Bihar, Patna.
3. The National Council for Teacher Education, New Delhi through its secretary.
4. The Chairperson, National Council for Teacher Education, New Delhi.
5. The Secretary, National Council for Teacher Education, New Delhi.

... .. Respondent/s

=====

with

Civil Writ Jurisdiction Case No. 16055 of 2023

=====

1. Bandana Kumari W/o Sharawan Kumar, R/o Narayani Bhawan Hosipal Road, Siwan, P.S.- Town, Distt- Siwan.
2. Manoj Kumar, S/o Raghunandan Prasad, R/o Vill- Krishnapuri, P.O.-Munger, P.S.- Kotwali, Distt- Munger.
3. Vir Kumar Singh, S/o Rajeshwar Singh, R/o Vill and P.O.- Pratappur, P.S.-Sandesh, Distt- Bhojpur.
4. Dhananjay Kumar, S/o Baban Singh, R/o Flat No. 203, Om Anuradha Niketan Ambedkar Chowk, P.O.- Hanuman Nagar, Kankarbagh, P.S.-



Agamkuan, Distt- Patna.

5. Dolly Kumari, D/o Ram Avtar Singh, R/o House No. 078 Vill- Umdha (West Tola) Ward No. 05, P.O.- Fakuli, P.S.- Chapra Muffasil, Distt- Saran (Chapra).
6. Aswani Kumar, S/o Mahendra Singh, R/o Mohalla- Raja Ke Pokhara ward no. 03, Jagdishpur, P.O. and P.S. Jagdishpur, Distt- Bhojpur.
7. Akhilesh Kumar Yadav, S/o Surendra Prasad Yadav, R/o Vill- Lala Chhapra, P.O. and P.S.- Kesariya, Distt- East Champaran.
8. Sanjeev Kumar, Son of Bijali Prasad Yadav, R/o Vill- Chakki Hanuman Nagar, P.O.- Narhan Panapur, P.S.- Rajepur, Dist- East Champaran.
9. Rajesh Kumar, S/o Mankeshwar Prasad, R/o Vill- Briti Tola, Jagdishpur, P.O.- and P.S.- Jagdishpur, Distt- West Champaran.
10. Subhash Kumar, S/o Lalan Thakur, R/o Vill- Pipra, P.O.- Damodarpur, P.S.- Pipra, Distt- East Champaran.
11. Anup Kumar Sharma, Son of Dhananjay Sharma, R/o Vill- Kanthi Bathua, P.O.- Bathua Bazar, P.S.- Phulwaria, Distt- Gopalganj.
12. Rintoo Kumar Mishra, S/o Datta Treynath Mishra, R/o Vill- Khemantola, P.O.- Peuli, P.S.- Mirganj, Distt- Gopalganj.
13. Santosh Kumar Verma, Son of Umesh Prasad Verma, R/o Vill- Chhoti Daulatpur, P.O and P.S.- Jamalpur, Distt- Munger.
14. Rahmat Ali, S/o Jubed Ali, R/o Garad Tola, P.O.- Hemkunj, P.S.- Amdabad, Distt- Katihar.
15. Manohar Kumar Gupta, S/o Sahadev Sah, R/o Vill and P.O.- Karariya, P.S.- Kotwa, Distt- East Champaran.
16. Dhiraj Kumar, S/o Kamata Prasad, R/o Vill- Ghora Sahan, P.O and P.S.- Ghora Sahan, Distt- East Champaran.
17. Ganga Ram Singh, S/o Ramhit Singh, R/o Vill- Parwatiya Tol, P.O.- Pirhi, P.S.- Babubarhi, Distt- Madhubani.
18. Bimlesh Kumar, S/o Bhogendra Prasad, R/o Vill- Radh, Ward no. 04, P.O.- Malmal, P.S. - Kaluahi, Distt- Madhubani.
19. Dhanvir Yadav, Son of Manshiph Yadav, R/o vill- Biratpur, P.O.- Kamalpur, Ward No.- 10, P.S.- Basopatti, Distt- Madhubani.
20. Manoj Kumar Bharti, S/o Ramavtar Mandal, R/o Vill- Kushmar, P.O.- Chatra, P.S.- Khajauli, Distt- Madhubani.
21. Shankar Kumar Yadav, S/o Ram Udgar Yadav, R/o vill- Salempuru, P.O.- Bhojpandaul, P.S.- Bisfi, Distt- Madhubani.
22. Satish Kumar Mahto, S/o Chandra Narayan Mahto, R/o Vill and P.O.- Rupauli, P.S.- Jhanjharpur, Distt- Madhubani.
23. Ram Bharos Yadav, S/o Manjelal Yadav, R/o- Vill and P.O.- Mahathour, P.S.- Phulparas, Distt- Madhubani.
24. Dhananajay Kumar, S/o Om Prakash Gupta, R/o Vill and P.O.- Arthu, P.S.- Dinara, Distt- Rohtas.
25. Pappu Kumar, S/o Meghnath Prasad, R/o Vill and P.O.- Dhansoi, P.S.-



Dhansoi, Dist- Buxar.

26. Raushan Kumar, S/o Vikrama Singh, R/o Vill and P.O.- Barka Gaon, P.S.- Sikraul, Distt- Buxar.
27. Bhagwan Krishna, S/o Late Chhiteshwar Prasad, R/o- Rambagh, Ward No.- 27, P.S.- Model Thana, Distt- Buxar.
28. Santosh Kumar, S/o Ramdeo Singh, R/o Vill and P.O.- Atimi, P.S.- Nawanagar, Distt- Buxar.
29. Krishna Murari, S/o Late Ram Prakash Verma, R/o Vill- Chhotki Sarimpur Kali Asthan, P.O. and P.S.- Buxar, Distt- Buxar.
30. Vikash Kumar, S/o Rajendra Ray, R/o Vill- Manganpur, P.O.- Manganpur, P.S.- Bhagwanpur, Distt- Vaishali.
31. Kul Bhushan Kumar, S/o Vidyanand Singh, R/o Vill- Chhota Hasanpur, P.O. and P.S. Khusropur, Distt- Patna.
32. Mayank Kumar, S/o Bhola Ray, R/o Vill- Chakiya, P.O.- Giddha, P.S.0 - Saraiya, Distt- Muzaffarpur.
33. Amit Kumar, S/o Rajeshwar Prasad, R/o Vill- Harpur, P.O.- Giddha, P.S.- Saraiya, Distt- Muzaffarpur.
34. Hari Shankar Kumar, S/o Satyanarayan Rai, R/o Vill- Maeghua, P.O.- Morsandi, P.S.- Motipur, Distt- Muzaffarpur.
35. Jitesh Kumar, S/o Shivdayal Ray, R/o Vill- Gorigama Dih, P.O.- Gorigamadih, P.S.- Saraiya, Distt- Muzaffarpur.
36. Tuntun Kumar Yadav, S/o Ram Pratap Ray, R/o Vill and P.O.- Morsandi, P.S.- Motipur, Dist- Muzaffarpur.
37. Subesh Kumar, S/o Yogendra Mahto, R/o Vill- Pirapur (Chak), P.O.- Pirapur, P.S.- Piar, Distt- Muzaffarpur.
38. Anirudh Kumar Singh, S/o Yogendra Prasad Singh, R/o Vill and P.O.- Chatra, Ward No.- 03, P.S.- Khajauli, Distt- Madhubani.
39. Guru Sharan Singh, S/o Jagjiban Singh, R/o Vill- Narar Madhubani Tol, Ward No. 12, P.O.- Narar (West), P.S.- Kaluahi, Distt- Madhubani.
40. Pravin Kumar, S/o Arun Prasad Yadav, R/o Vill- Narha, P.O.- Jiyaram Raghapur, P.S.- Raghapur, Distt- Supaul.
41. Anand Bharti, S/o Kishori Prasad, R/o Vill- Lalubigha, Katharahi ka Tola Lalubigha, Ward No. 08, P.O.- Korari, P.S.- Bind (Nalanda), Distt- Nalanda.
42. Pravin Kumar, S/o Ranjit Kumar, R/o Vill- Bara, P.O.- Inai, P.S.- Baheri, Distt- Darbhanga.
43. Pradeep Kumar, S/o Bhola Mandar, R/o Vill- Bara, P.O.- Inai, P.S.- Baheri, Distt- Darbhanga.
44. Thakur Ashok Kumar, S/o Mahesh Thakur, R/o Vill and P.O.- Barhi, P.O. and P.S.- Keoti, Runway, Distt- Darbhanga.
45. Ram Kumar, S/o Ramavtar Yadav, R/o Vill and P.O.- Tatuvar, P.S.- Manigachhi, Distt- Darbhanga.
46. Hari Bhushan Yadav, S/o Vishwnath Yadav, R/o Vill- Baggha, P.O.- Jalwara, P.S.- Kamtaul, Distt- Darbhanga.



47. Navendu, S/o Shyam Narayan, R/o Vill- Dome, Ward No.- 02, P.O.- Koil Asthan, P.S.- Keoti, Distt- Darbhanga.
48. Ranjeet Kumar, S/o Nageshwar Prasad Yadav, R/o Vill- Lohyanagar, P.O. Suhidra Nagar, Ward No. - 28, P.S. and Distt- Begusarai.
49. Mrituinjay Ranjan, S/o Jai Narayan Thakur, R/o Vill and P.O.- Suja, P.S.- Muffasil, Dist- Begusarai.
50. Sanjay Kumar Yadav, S/o Satya Narayan Yadav, R/o Vill- Mathar, P.O.- Gorgama, P.S.- Nayaganw, Distt- Begusarai.
51. Rohit Kumar Singh, S/o Parmanand Singh, R/o Vill and P.O- Hasanpur Bazar, P.S.- Naokothi, District- Begusarai.
52. Ranjeet Kumar, Son of Rajendra Sah, R/o Vill- Pokharia, Ward No.- 35, near S.P. Office New Colony, P.O. and P.S. and Distt- Begusarai.
53. Sanjay Kumar Yadav, S/o Ram Nandan Yadav, R/o Vill- Bachhwara Tara, P.O. and P.S.- Bachhwara, Dist- Begusarai.
54. Prashant Kumar, S/o Sri Jay Prakash, R/o Vill and P.O.- Rudauli, P.S.- Bachhwara, Dist- Begusarai.
55. Indal Kumar, S/o Ramashish Ray, R/o Vill and P.O.- Bhadiyan ward no. 05, P.S.- Nanpur, Distt- Sitamarhi.
56. Sanjay Kumar, S/o Lal Bihari Singh, R/o Vill- Madhopur, Raushan Bhiso, P.O.- Amaghatta, P.S.- Dumra, Distt- Sitamarhi.
57. Rajan Kumar Jha, S/o Sushil Kumar Jha, R/o Vill and P.O.- Dumari Kalan, P.S.- Majorganj, Distt- Sitamarhi.
58. Rupesh Kumar Kushavaha, S/o Ganesh Mahato, R/o Vill- Kothiya Ray, P.O.- Dumari Kalan, P.S.- Suppi, Distt- Sitamarhi.
59. Md. Shueb Alam, S/o Md. Manir, R/o Vill- Nimarang, Ward No. 27, Khaira Road, P.S.- Jamui, Distt- Jamui.
60. Ranjeet Kumar, S/o Mahendra Mandal, R/o Vill- Harichak, P.O.- Kashri, P.S.- Antichak, Distt- Bhagalpur.
61. Rajneesh Ranjan Grain, S/o Krishna Nandan Grain, R/o Vill- Praduman Bigha, P.O. and P.S.- Ben, Distt- Nalanda.
62. Mukesh Kumar, S/o Mahesh Prasad, R/o Vill- Mahmaddpur, P.O.- Rasisa, P.S.- Aungari, Distt- Nalanda.
63. Ramesh Kumar, S/o Mohanlal Singh, R/o Vill and P.O.- Agni, P.S.- Bbelaganj, Distt- Gaya.
64. Arun Kumar, S/o Devnarayan Singh, R/o Vill- Dewariya, P.O.- Bharaundha, P.S.- Gurua, Distt- Gaya
65. Aditya Kumar, S/o Vijay Kumar, R/o Mohalla- Narayan Tola, P.O. and P.S.- Sherghati, Distt- Gaya.
66. Binay Kumar, Son of Ram Swarup Prasad, R/o Vill and P.O.- B.T. Bigha, P.S.- Sherghati, Distt- Gaya.
67. Santosh Kumar, S/o Ramadhar Prasad Yadav, R/o Vill- Chausandi, P.O.- Nimthu, P.S.- Nimachak, Bathani, Distt- Gaya.
68. Shashi Kant Ranjan, S/o Baleshwar Prasad, R/o Vill and P.O.- Maranchi,



P.S.- Paraiya, Distt- Gaya.

69. Pinku Kumar, S/o Naresh Kumar, R/o Vill- Toka, Ward No. 12, P.O.- Rupauli Jivachhapur, P.S.- Ghamhariya, Distt- Madhepura.
70. Kundan Kumar, S/o Sushil Yadav, R/o Vill and P.O.- Dhurgaon, Ward No.- 07, P.S. and Distt- Madhepura.
71. Bilas Kumar Raj, S/o Birendra Prasad, R/o Vill and P.O.- Bhatarandha, P.S.- Ghailadh, Distt- Madhepura.
72. Ram Pravesh Kumar, S/o Uttamlal Prasad Yadav, R/o Vill - Jhitkiya, ward No. 07, P.O and P.S.- Ghailarh, Distt- Madhepura.
73. Ratan Kumar, S/o Ram Prasad Yadav, R/o Vill- Sirwar, Ward No.- 03, P.S.- Mishi, Distt- Saharsa.
74. Pankaj Kumar, S/o Naresh Kumar, R/o Vill- Toka Ward No. 12, P.O.- Rupauli, Jivachhpur, P.S.- Gamhariya, Distt- Madhepura.
75. Umesh Kumar, S/o Baban Singh, R/o Vill- Srirampur, P.O.- Pahleja, P.S.- Sasaram, Distt- Rohtas.
76. Raman Kumar, S/o Radhe Prasad, R/o Vill and P.O.- Mahaddipur, P.S.- Pasraha, Distt- Khagaria.
77. Sanjay Kumar, S/o Sitaram Chaudhari, R/o Vill- Atkhamba, P.O.- Koiri Tola, P.S.- Barharaia, Distt- Siwan.
78. Sumit Kumar, S/o Bipin Singh, R/o Vill- Nagwan P.O.- Chorauli, P.S.- Bhagwanpur Hat, Distt- Siwan.
79. Pramod Kumar, S/o Suman Prasad, R/o Vill and P.O.- Panwar, P.S.- Radhunathpur, Distt- Siwan.
80. Bipin Kumar, S/o Ram Ashish Sharma, R/o Bhakharauli, P.O.- Berma, P.S.- Lakhnaur, Distt- Madhubani.
81. Ajit Kumar, S/o Narsingh Sharma, R/o Vill- Mathurapur, P.S.- Nurjamanpur, Distt- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary Education Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director Primary Education, Education Department, Govt. of Bihar, Patna.
4. The National Council for teacher Education New Delhi through its Secretary.
5. The Chairman, National Council for Teacher Education New Delhi.
6. The Secretary, National Council for Teacher Education New Delhi.

... .. Respondent/s

Appearance :



(In Civil Writ Jurisdiction Case No. 5053 of 2021)

For the Petitioner/s : Mr. Rajendra Narain, Sr. Advocate
Mr. Abhinav Srivastava, Advocate

For the State : Mr. Apurva Kumar, Sr. Advocate

For the Intervenor : Mr. Mrigank Mauli, Sr. Advocate

Mr. Mukesh Kumar, Advocate

Mr. Ashish Giri, Advocate

For the NCTE : Mr. Sunil Kumar, Advocate

(In Civil Writ Jurisdiction Case No. 5922 of 2022)

For the Petitioner/s : Mr. Ranjan Kumar Sharma, Advocate

For the State : Mr. Apurva Kumar, Sr. Advocate

(In Civil Writ Jurisdiction Case No. 16055 of 2023)

For the Petitioner/s : Mr. Rajendra Narain, Sr. Advocate

Mr. Maya Shankar Mishra, Advocate

For the State : Mr. Apurva Kumar, Sr. Advocate

For the NCTE : Mr. Sunil Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

CAV JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-12-2023

The writ petitions agitate the issue of consideration of candidates having B.Ed from any National Council of Teacher Education, (hereinafter for short 'NCTE') recognised institution for appointment as Teachers in primary schools holding classes between 1 to 5. The stipulation to entitle B.Ed qualified candidates made applicable for teacher's post in primary schools came by way of a notification issued by 'the NCTE' on 28.06.2018; which has now been set at naught by the Hon'ble Supreme Court in **Devesh Sharma vs. Union of India & Ors. 2023 SCC OnLine SC 985**.

2. The writ petitioners challenged the notification before this Court by the aforesaid petitions of the year 2021. In



the meanwhile, a similar challenge raised before the Rajasthan High Court was allowed by judgment dated 25.11.2021 rendered by a Division Bench of that Court (produced as Annexure-10 in C.W.J.C. No. 5053 of 2021). It was the said judgment challenged in Special Leave Petition, which resulted in the decision in **Devesh Sharma** (supra).

3. In the above writ petitions, by order no.3 dated 16.07.2021, a Division Bench of this Court permitted the respondents to carry on with the process of selection and appointment during the pendency of the writ petition but made it subject to the outcome of the writ petition and also stipulated that the candidates selected and appointed shall be made aware of the pendency of the writ petition.

4. I.A. No. 01 of 2021, filed on behalf of the Intervenors, who were B.Ed qualified, for impleadment as party respondents in the main writ application was disposed of without allowing the prayer for impleadment, but reserving liberty to file afresh if the need so arises. However, the applicants were permitted to assist in the matter and it was also directed that the learned counsel would be sent a link of the proceedings for online hearing. A further impleading petition seeking permission to be impleaded as petitioners, to support



the cause of those qualified with a Diploma in Elementary Education, was rejected by yet another Division Bench, as per order no.6 dated 10.10.2023.

5. The Counsel representing the petitioners in I.A. No. 01 of 2021, Shri. Ashish Giri is before us. Learned Senior Counsel Shri. Mrigank Mauli appeared in I.A. No. 02 of 2021, again seeking intervention to oppose the prayer in the writ petition, the petitioners being B.Ed qualified candidates. The same was allowed by order no. 7 dated 29.11.2023. We heard learned Senior Counsel Shri. Rajendra Narain and learned Counsel Shri. Abhinav Srivastava for the petitioners, learned Senior Counsel Shri. Apurv Kumar appearing for the State of Bihar, Dr. K.N. Singh, learned Additional Solicitor General appearing for 'the NCTE' as also Shri. Mrigank Mauli and Shri. Ashish Giri for the intervenors.

6. A preliminary objection was raised insofar as the selection having been proceeded with and appointments having been carried out; none of whom are before this Court. However, it has to be noticed that the selection was proceeded with on the basis of the amendments made to the rules of the State, in accordance with the modification brought about to the essential qualification, by 'the NCTE' in the year 2018, by



virtue of interim order no.3 referred to above. The Division Bench had categorically observed in the said interim order that the pendency of the writ petition shall be intimated to the candidates selected and appointed and that they shall not claim any equity since that selections and appointments were directed to be carried out only subject to the outcome of the writ petition.

7. The intervenors, who support the cause of the B.Ed candidates are before us and despite the pendency of the writ petition having been communicated to the appointed candidates; as vouched by the Government Advocate, none except the intervenors herein have sought impleadment in the writ petition. Their cause being adequately agitated before this Court, there is no scope for any further directions to be issued for impleadment of the affected parties, who despite intimation of the pendency of the writ petition and their appointments being subject to the final outcome, have not cared to get themselves impleaded herein.

8. We proceeded with the matter especially noticing that the issue is no longer *res integra* going by the decision in **Devesh Sharma** (supra). Shri. Mrigank Mauli, learned Senior Counsel however, pointed out that though there



is no specific express intendment as available in the judgment, the fact that the Hon'ble Supreme Court while deciding **Devesh Sharma** (supra), has in the operative portion found fault with the State Government for not having permitted the B.Ed candidates to participate in the selection that was notified in the State of Rajasthan. This action of the State was held to be improper, since the constitutionality was not been decided at that point of time. This makes the decision prospective in nature and hence the instant selection and appointment carried out prior to the judgment would have to be upheld by this Court.

9. To further garner support for the proposition of prospective overruling, the learned Senior Counsel placed reliance on **Somaiya Organics (India) Ltd. v. State of U.P., (2001) 5 SCC 519** and **Kailash Chand Sharma v. State of Rajasthan, (2002) 6 SCC 562**. Shri. Ashish Giri, who appears and also argues for the B.Ed qualified candidates points out that the decision in **Devesh Sharma** (supra) is *sub silentio* since the validity of the notification was already considered and upheld by a Coordinate Bench of the Hon'ble Supreme Court in **Ram Sharan Maurya v. State of U.P., (2021) 15 SCC 401**.

10. Reliance is also placed on **National Insurance**



Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680, a five Judges Bench decision to argue that a coordinate bench decision rendered earlier would hold the field insofar as the declaration of law, even if the latter decision differs from it. Shri. Ashish Giri also points out that Annexure-9 judgment of a learned Single Judge of this Court further upheld the suitability of B.Ed candidates to be considered for selection and appointment as teachers in primary schools, as brought out by ‘the NCTE’. The action of the State to prepare a separate merit list for the Diploma in Elementary Education and B.Ed candidates for the purpose of appointment, after nullifying the combined merit list contemplated in the selection process was held to be not satisfying the requirement of reasonable classification under Articles 14 and 16 of the Constitution of India. It is argued that inter parties the judgment holds goods.

11. Shri. Rajendra Narain, learned Senior Counsel pointed out that after the judgment in **Devesh Sharma** (supra) a three Judges bench of the Hon’ble Supreme Court followed **Devesh Sharma** (supra) as is evident from Annexure-P/12 produced along with C.W.J.C. No. 16055 of 2022 in which it was specifically stated that though no comment is made regarding the notification issued by the State of Bihar; since the



State was not a party, it is expected that the State of Bihar would take into account the judgment of the Apex Court in **Devesh Sharma** (supra). Hence there is no question of **Ram Sharan Maurya** (supra), the earlier two Judges decision holding the field.

12. Shri. Abhinav Srivastava argued that in any event **Ram Sharan Maurya** (supra) did not look into the constitutionality of the notification and merely followed the same going by the powers conferred on 'the NCTE'; which powers were found to be not properly exercised in bringing out the modification of 2018, which led to the notification itself being declared *ultravires* by the Hon'ble Supreme Court in **Devesh Sharma** (supra).

13. We have to notice the notifications of 2010 and 2018 issued by 'the NCTE', specifically the qualifications prescribed as minimum eligibility criteria for selection and appointment of teachers of the primary classes. 'The NCTE' by a notification of 23.08.2010, produced as Annexure-1 had the following minimum qualification prescribed for teachers to be appointed to classes 1 to 5:-

1 Minimum Qualifications:-

(i) Classes 1-V

(a) Senior Secondary (or its equivalent)



with at least 50% marks and 2 – year Diploma in Elementary Education (by whatever name known)

OR

Senior Secondary (or its equivalent) with at least 45% marks and 2 – year Diploma in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure), Regulations 2002

OR

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

OR

Senior Secondary (or its equivalent) with at least 50% marks and 2 year Diploma in Education (Special Education)

AND

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

14. On 28.06.2018, the notification produced as

Annexure-5 made the following modifications:-

(I) In the said notification, in para 1 in sub-para (I), in clause (a) after the words and brackets “Graduation and two year Diploma in Elementary Education (by whatever name known), the following shall be inserted, namely:-

OR

“Graduation with at least 50% marks and Bachelor of Education (B.Ed.)”

2. In the said notification in para3, for sub-para(a), the following sub-para shall be substituted namely:-

“(a) who has acquired the



qualification of Bachelor of Education from any NCTE recognized institution shall be considered for appointment as a teacher in Class I to V provided the person so appointed as a teacher shall mandatorily undergo a six month Bridge Course in Elementary Education recognized by the NCTE. Within two years of such appointment as primary teacher”.

15. It is the modification of the year 2018, Annexure-5 which has been set at naught in **Devesh Sharma** (supra).

16. We will first look at **Ram Sharan Maurya** (supra), which also considered the issue of entitlement of B.Ed candidates to participate in the process of selection for appointment to the post of primary teachers in the State of Uttar Pradesh. In Paragraph no. 43, it was specifically noticed by the Hon’ble Supreme Court that there is no challenge to the entitlement of B.Ed candidates to participate in the selection process; which was observed as crucial. But even then, their Lordships proceeded to consider whether the candidates holding B.Ed degrees were entitled in law to be considered eligible in the selection process challenged before them. After noticing the provisions in the enactment, specifically the functions of the Council and the decisions of the Hon’ble



Supreme Court delineating such powers, the amendment brought to 'the NCTE' Act in 2011 was also noticed. In 2011, in addition to the function of 'the NCTE' to achieve planned and coordinate development of the teacher education system throughout the country, by regulating and maintaining the norms and standards of teacher education system, it was also empowered to prescribe qualification of school teachers and for matters connected therein. Section 12A was also inserted in the 'NCTE Act' empowering the Council to determine the minimum standard for school teachers, which *interalia* included primary education or rather, primary school teachers. Further, Section 32 of 'the NCTE Act' empowered the Council to make regulations by issuing notification in the official gazette to carry out the provisions of the 'NCTE Act' which by the introduction of Section 12A included the qualification of teachers.

17. Thus, by virtue of the change in the scope and ambit of 'the NCTE Act' and Section 23 of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter in short 'the RTE Act' under which provision the Central Government authorized 'the NCTE' as the academic authority to lay down the minimum qualifications of eligibility



for appointment as a teacher, the notification dated 28.06.2018 was issued. By the notification of 2018, the qualification of B.Ed from any NCTE recognised institution was prescribed to be valid qualification for appointment as a teacher, who would also mandatorily undergo a six months bridge course in elementary education, within two years of such appointment. It was in the context of the power conferred on 'the NCTE' by the authorization of the Central Government under Section 23 of 'the RTE Act' and the amendments brought to 'the NCTE Act' in 2011, that the notification was upheld; though there was no challenge to the same. It has to be immediately stated that the process and procedure by which the notification was issued was not examined by the Hon'ble Supreme Court in **Ram Sharan Maurya** (supra).

18. **Devesh Sharma** (supra) considered the validity of the notification dated 28.06.2018 of 'the NCTE', which had made eligible, B.Ed holders also to apply for the post of primary school teachers. The challenge arose from a decision of the Rajasthan High Court, which set aside the notification dated 28.06.2018. The Hon'ble Supreme Court found that Section 23 of 'the RTE Act' empowered the academic authority authorized by the Central Government to



lay down the minimum qualifications required for the appointment of a teacher. It is in accordance with that 'the NCTE' was authorized as the academic authority which brought out a notification on 23.08.2010, which laid down the qualification for teachers at every level of school education; primary, upper primary, secondary and senior secondary. The notification prescribed that Diploma in Elementary Education is an imperative qualification for primary school teachers. This emphasized the pedagogical approach required from a teacher at the primary level, the student being at the initial formative years, requiring handling with care and sensitivity thus making it unique in the course of education. 'The NCTE' by Section 29 of the Act, is also required to lay down curriculum and evaluation procedure, which requires the pedagogical approach to deal with child students. A person who has a B.Ed qualification is specifically trained to teach at secondary and higher secondary level, falling short of the expected finesse required in imparting training to primary level students, was the finding. Various decisions of the Hon'ble Supreme Court were also noticed wherein it was held that though B.Ed is a well recognised qualification in the field of teaching, it may fall short of the requirements for imparting training in classes of



primary level.

19. With these rationale in the background, the Hon'ble Supreme Court in **Devesh Sharma** (supra) looked at the material before the Court to examine the validity of the decision taken by 'the NCTE'. It was found that the same was not an independent decision as expected from an independent academic authority who is also enjoined with the task of improving the standard of education, especially when its functions did not extend to providing avenues of employment for B.Ed trained teachers. The sequence of events that led to the notification of 28.06.2018, were meticulously looked into. The decision was found triggered by a letter of the Commissioner of Kendriya Vidyalaya Sangathan(for brevity, 'the KVS') requesting B.Ed qualified teachers to be appointed in their primary schools since sufficient number of trained Diploma holders were not available. A meeting was held on 28.05.2018, in the Ministry of Human Resources in which it was decided to recognize B.Ed as an additional eligibility criteria for primary teachers in 'the KVS' schools. On the very next day i.e. 29.05.2018, a note was issued observing that if B.Ed qualified candidates are made eligible for primary schools, then there should be no difficulty in employing such



candidates in other schools also. This culminated in a direction issued by the Ministry of Human Resources Department under Section 29 of 'the NCTE Act'. Complying with the direction so issued, the notification dated 28.06.2018, was brought out by 'the NCTE'.

20. The minutes of the meeting dated 28.05.2018, the note dated 29.05.2018, and the directions issued by letter dated 30.05.2018, were extracted in the judgment. It was held that the reasoning was insofar as including B.Ed qualified candidates for appointment as teachers in primary schools only for reason of dearth of qualified TET candidates, which reasoning is flawed insofar as B.Ed not being a qualification passing "*the basic pedagogical threshold for teaching primary classes*" (*sic*). It was held that 'the NCTE' was not justified in including B.Ed as a qualification for appointment to the post of primary teachers and that the Rajasthan High Court rightly struck down the notification dated 28.06.2018.

21. The Hon'ble Supreme Court also considered the contention that laying down B.Ed as a qualification for primary teachers was a policy decision of the Central Government, which 'the NCTE' was bound to follow under Section 29 of 'the NCTE Act', which normally would not be



interfered with by a Constitutional Court in exercise of its powers of judicial review. However, the policy decision was interfered with, on the finding that it is contrary to law and is arbitrary and irrational. The decision was held to have been taken without proper application of mind and in total disregard of relevant factors by 'the NCTE', the authorised academic body, on mere dictates of the Central Government; which direction also was not preceded by any material, but for the dearth of trained teachers to impart elementary education.

22. The decision to include or exclude B.Ed as a qualification for primary teachers was held to be primarily an academic decision which had to be taken by the academic body after a proper study. However, 'the NCTE' had not conducted any study in the matter and had merely adopted the policy decision of the Central Government, which was quite contrary to its earlier stipulation, excluding B.Ed from the eligibility qualification for primary school teachers. The Central Government was found to have taken the decision merely on the ground of B.Ed being a higher qualification without looking at the needs of primary education, was the finding.

23. We cannot but notice that **Ram Sharan Maurya** (supra) considered the issue of eligibility of B.Ed



qualified teachers to be appointed as primary school teachers on the basis of 'the RTE Act', 'the NCTE Act' and the notification issued by 'the NCTE'; despite there being no challenge to such stipulation of 'the NCTE' by a notification. The notification or the manner in which it was issued or the decision making process behind such notification was not challenged before the Court nor had the Court examined it, in the manner in which it was examined in **Devesh Sharma** (supra). We do not think that **Pranay Sethi** (supra) in that context has any application to the facts of the case. Though coordinate bench decisions; **Ram Sharan Maurya** (supra) and **Devesh Sharma** (supra) are in different contexts and there is no conflict since the first case did not consider the validity of the notification and upheld the prescription of the qualification based on such notification; which notification was held to be *ultravires* in **Devesh Sharma** (supra).

24. Now, the question arises as to whether there is any justification for the argument that the declaration made in **Devesh Sharma** (supra) is prospective in nature. **Somaiya Organics (India) Ltd.** (supra) applied the doctrine of prospective overruling and referred to **Golaknath v. State of Punjab; (1967) 2 SCR 762**, wherein the parameters of such



power were laid down and first employed. It was noticed that **Golaknath** (supra) laid down that, the doctrine of prospective overruling can be invoked only in matters arising under our Constitution, it can only be applied by the Hon'ble Supreme Court and the scope of the retroactive operation of the law declared by the Hon'ble Supreme Court, superseding its earlier decisions left discretion to itself, to be moulded in accordance with the justice of the cause or the matter before it. Prospective overruling was found to be a recognition of the principle that the Court moulds the reliefs claimed, to meet the justice of the case, justice not in its logical but in its equitable sense. There is no such express declaration made by the Hon'ble Supreme Court in **Devesh Sharma** (supra)

25. Much has been argued about the Hon'ble Supreme Court having noticed that the Rajasthan Government when issuing an advertisement had not included the qualification of B.Ed candidates; especially when they were made eligible as per the statutory notification of 'the NCTE', which was also binding on the Rajasthan Government. This impliedly indicates the prospective overruling is the contention raised; which we are unable to accept. The above observation was only in the context of the Rajasthan High Court, having set



aside the notification dated 28.06.2018; in the operative portion of its judgment held that the State Government could not have ignored the notification of 'the NCTE' while issuing the advertisement. The Rajasthan High Court had then clearly stated that since the notification itself was declared illegal the issue was only one of academic value.

26. The Hon'ble Supreme Court had only affirmed the observation made by the Rajasthan High Court that when a statutory notification is issued by the academic authority authorized to issue such directions, the State Government ought not to have ignored it and that it cannot be assumed to be unconstitutional, till it is so declared illegal or unconstitutional by the Courts of law. This does not for a moment restore the eligibility of the B.Ed candidates to appear for the selection in the State of Rajasthan. When the decision did not confer such a benefit to the candidates of the selection which was subjected to challenge therein; there is no question of that being allowed in a selection similarly challenged, which writ petition is being now disposed off in the light of the binding decision of the Hon'ble Supreme Court.

27. We reiterate that the High Court of Rajasthan had specifically made an observation regarding the action of



the State, in not following the statutory mandate, which is only to put the matter in the correct perspective of law, not inuring to the benefit of the B.Ed holders, especially in the context of the setting aside of the notification of 'the NCTE'. The observation regarding the illegality of the advertisement issued by the State was only academic in nature.

28. We find absolutely no reason to permit the notification issued by 'the NCTE', which is challenged in the above batch of writ petitions, to be acted upon, though the selection is prior to the judgment of the Hon'ble Supreme Court. We are bound by the decision of the Hon'ble Supreme Court and so is the State, under Article 141 of the Constitution, which has been reaffirmed in Annexure-P/12 order of the Hon'ble Supreme Court produced in C.W.J.C. No. 16055 of 2023, by a three Judges Bench of the Hon'ble Supreme Court following **Devesh Sharma** (supra).

29. The writ petitions are allowed with the finding that the notification dated 28.06.2018, issued by 'the NCTE' is no longer applicable and the B.Ed candidates cannot be considered eligible for appointment as primary school teachers. It goes without saying that the appointments made will have to be reworked and the eligible candidates as per the original



notification of ‘the NCTE’ of the year 2010 can only be continued in the post to which they have been appointed. The State would also take a decision as to whether the vacant posts falling vacant on such reworking are to be filled up from the merit list available with the State, of the candidates eligible for appointment as primary school teachers.

30. The writ petitions are allowed with the aforesaid observations.

(K. Vinod Chandran, CJ)

Rajiv Roy, J:- I Agree

(Rajiv Roy, J)

Aditya Ranjan/-

AFR/NAFR	
CAV DATE	29.11.2023.
Uploading Date	06.12.2023.
Transmission Date	

