

2025 LiveLaw (SC) 393

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

B.R. GAVAI; J., AUGUSTINE GEORGE MASIH; J.

APRIL 04, 2025

CIVIL APPEAL NO. OF 2025 (Arising out of SLP(C) No. 19139 of 2024)

KOUSIK DAS & ORS. *versus* STATE OF WEST BENGAL & ORS.

Right of Children to Free and Compulsory Education Act, 2009; Section 23 - National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014 - Any teacher who was in-service as on 10.08.2017 and who acquired the Diploma In Elementary Education (D. El. Ed.) qualification through National Institute of Open Schooling's (NIOS) 18-months programme prior to 01.04.2019 is a valid diploma holder and at par with a teacher who completed the 2 years D. El. Ed. programme. Such of the teachers who were in employment as on 10th August 2017 and who completed the 18 months D. El. Ed. (ODL) programme through NIOS before 1st April 2019 shall be considered as valid diploma holders for the purpose of applying in other institutions and/or for promotional avenues. (Para 33)

[Arising out of impugned final judgment and order dated 24-07-2024 in MAT No. 817/2024 passed by the High Court at Calcutta]

For Petitioner(s): Mr. Gopal Sankaranarayanan, Sr. Adv. Mr. Suryodaya Prakash Tiwari, Adv. Mr. Gaurav Singh, AOR Mrs. Shachi Pandey, Adv. Ms. Vibha Datta Makhija, Sr. Adv. Mr. Santosh Kumar, AOR. Mr. Praveen Gaur, Adv.

For Respondent(s)/ Applicant(s) : Mr. Jaideep Gupta, Sr. Adv. Mr. Kunal Chatterji, AOR Ms. Maitrayee Banerjee, Adv. Mr. Rohit Bansal, Adv. Mr. Gagan Gupta, Sr. Adv. Mr. Abhinav, AOR Ms. Deeksha Prakash, Adv. Ms. Kirti Vyas, Adv. Mr. Biswajit Deb, Sr. Adv. Mr. Anando Mukherjee, AOR Mr. Shwetank Singh, Adv. Ms. Shalini Chandra, AOR Mr. Arun Kumar, Adv. Mr. Abhinav Kumar, Adv. Mr. Rameshwar Prasad Goyal, AOR Mr. Amit Thorat, Adv. Mr. Dibyadyuti Banerjee, Adv. Ms. Sumedha Halder, Adv. Mr. Abhijit Sengupta, AOR Mr. Paras Chauhan, Adv. Mr. Suryodaya Prakash Tiwari, Adv. Mr. Devendra Kumar Shukla, AOR Ms. Shachi Pandey, Adv.

J U D G M E N T

B.R. GAVAI, J.

1. Interlocutory Applications No. 214706/2024, 2138/2025, 11267/2025, 11487/2025, 14658/2025, 20935/2025 and 40978/2025 are *allowed*.

2. Leave granted.

3. The appellants take exception to the final judgment and order dated 24th July 2024 passed by a Division Bench of the High Court at Calcutta in MAT 817 of 2024, whereby the Division Bench of the High Court *dismissed* the intra-court appeal filed by some of the appellants before this Court thereby *affirming* the judgment and order dated 29th February 2024 passed by a learned Single Judge of the High Court in W.P.A. No. 16118 of 2023.

4. The facts, *in brief*, giving rise to the present appeal are as under.

4.1 The Right of Children to Free and Compulsory Education Act, 2009 (hereinafter, "RTE Act") came into force on 1st April 2010. Section 23 of the RTE Act is concerned with the *qualifications* for appointment and terms and conditions of service of teachers. It is to be noted that sub-section (1) of Section 23 of the RTE Act provides that any person possessing such minimum qualifications, as laid down by an *academic authority*, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher. Pursuant thereto the Central Government has, *by a Gazette Notification*,

authorized the National Council for Teacher Education (hereinafter, “NCTE”) as the *academic authority*.

4.2 On 28th November 2014, the NCTE, in supersession of the previous regulations, prescribed the *NCTE (Recognition, Norms and Procedure) Regulations, 2014* (hereinafter, “2014 NCTE Regulations”).

4.3 On 3rd August 2017, the Central Government through Ministry of Human Resource Development (MHRD), *by way of a letter* addressed to the Principal Secretary/Secretary Education of all States and Union Territories (UTs) apprised them that in terms of Section 23 of the RTE Act, the in-service untrained elementary teachers in the Government/Government Aided/Unaided-Private Schools are *required to be trained*. It was further informed that the period for such training is being extended to 31st March 2019 by way of an amendment to the RTE Act and that this will be the *last chance* to acquire the requisite minimum qualifications and that any untrained teacher would not be allowed to continue in-service beyond 1st April 2019. Thereafter, on 10th August 2017 the amendment to the RTE Act (Act No. 24 of 2017) was notified by way of a Gazette Notification.

4.4 On 22nd September 2017, the NCTE, after considering the recommendations of an Expert Committee, *granted relaxation* to certain provisions of the 2014 NCTE Regulations for ensuring compliance with the directions of the Central Government in terms of the letter dated 3rd August 2017. It is to be noted that the duration of the Diploma in Elementary Education (hereinafter, “D. El. Ed.”) programme was reduced to 18 months instead of 2 years by including/subsuming the 6 months internship within the 18 months. It is further to be noted that the NCTE granted recognition/approval to National Institute of Open Schooling (hereinafter, “NIOS”) for conducting the 18 months D. El. Ed. programme through Online Distance Learning (hereinafter, “ODL”) mode via the SWAYAM Portal of MHRD for training of such of the in-service untrained teachers by 31st March 2019.

4.5 It appears that the appellants, in terms of the aforesaid recognition order, completed their 18 months D. El. Ed. programme through NIOS.

4.6 On 29th September 2022, the West Bengal Board of Primary Education (hereinafter, “WBBPE”) issued a notification for recruitment of qualified trained candidates to the posts of Assistant Teachers in Government Aided/Government Sponsored/Junior Basic Primary Schools.

4.7 On 6th July 2023, a set of candidates *desirous of recruitment to the post of Assistant Teachers* in terms of the notification dated 29th September 2022 filed a Writ Petition before the High Court at Calcutta. It was their *specific averment* that D. El. Ed. is a course of 2 years and that any candidate who has obtained the qualification pursuant to the programme through NIOS i.e., by sitting for the 18 months D. El. Ed. programme, should not be considered for the purposes of recruitment in terms of the recruitment notification dated 29th September 2022 issued by the WBBPE. It was their *prayer* in the Writ Petition that the High Court direct the respondent-authorities to *give preference* to such of the candidates who have completed their D. El. Ed. programme over a period of 2 years from recognized institutions over those candidates who have obtained their D. El. Ed. through the 18 months programme by NIOS. It was their further prayer that the High Court direct the respondent-authorities to not only *restrict* the 18 months NIOS trained candidates but also to *declare* that the 18 months programme by NIOS is not at all identical to the 2 years D. El. Ed. programme from a recognized institution.

4.8 During the pendency of the aforesaid Writ Petition before the learned Single Judge of the High Court, this Court delivered the judgment in the case of ***Jaiveer Singh & Ors. vs. The State of Uttarakhand & Ors.***¹

4.9 On 29th February 2024, the learned Single Judge of the High Court, after referring to the judgment of this Court in the case of ***Jaiveer Singh***, disposed of the Writ Petition by directing the WBBPE to not recruit *any teachers holding D. El. Ed. issued by NIOS under ODL mode i.e., the 18 months course from the recruitment process of the year 2022 onwards.*

4.10 Aggrieved thereby, some of the appellants herein filed an intra-court appeal before the High Court.

4.11 On 24th July 2024, the Division Bench of the High Court, by placing reliance on the judgment of this Court in the case of ***Jaiveer Singh***, dismissed the intra-court appeal.

4.12 Aggrieved thereby, the appellants filed the present appeal by way of special leave.

4.13 On 14th August 2024, a co-ordinate bench of this Court issued notice in the present appeal and tagged it with Transfer Petition (Civil) Nos. 1995-1997 of 2024.

4.14 It is pertinent to note that on 10th December 2024, a bench of this Court, of which one of us (B. R. Gavai, J.) was a party, passed an order in the case of ***Viswanath & Ors. vs. The State of Uttarakhand & Ors.***² in a batch of matters containing Review Petitions and Miscellaneous Applications essentially *seeking a review of the judgment of this Court in the case of Jaiveer Singh.*

4.15 On 21st February 2025, another co-ordinate bench of this Court, taking note of the fact that the judgment of this Court in the case of ***Jaiveer Singh*** so also the subsequent clarification by the order of this Court in the case of ***Viswanath*** was rendered by a bench comprising of one of us (B.R. Gavai, J.), directed the Registry to place the present appeal before the Hon'ble Chief Justice of India for listing the matter before an appropriate bench. That is how the present appeal has come up for hearing.

5. We have heard Shri Gopal Sankaranarayanan and Smt. Vibha Datta Makhija learned Senior Counsel appearing for the appellants and Shri Jaideep Gupta learned Senior Counsel appearing for the respondent-authorities.

6. Shri Sankaranarayanan learned Senior Counsel appearing on behalf of the appellants submitted that the Central Government through MHRD by way of a letter dated 31st August 2017 had extended the period for training of such of the in-service untrained teachers in Government/Government Aided/Unaided Private Schools to 31st March 2019. It is further submitted that the NCTE relaxed certain provisions of the 2014 NCTE Regulations thereby reducing the course duration of the 2 years D. El. Ed. programme to 18 months. It is, therefore, submitted that any teacher who was in-service as on 10th August 2017 and who has undertaken the 18 months D. El. Ed. programme through NIOS before 31st March 2019 is to be considered a valid diploma holder for the purpose of continuing in service, promotional avenues and for applying to other institutions.

7. It is submitted by Shri Sankaranarayanan that all the appellants were in-service as on 10th August 2017 and further that they had completed the 18 months D. El. Ed. programme through NIOS before 31st March 2019, so the judgment of this Court in the

¹ 2023 SCC Online SC 1584

² Review Petition (C) No. ... of 2024 [Diary No. 4961/2024]

case of **Jaiveer Singh**, which covers only such of the teachers who failed to fulfil the aforesaid requirements, does not oust them in any way.

8. The learned Senior Counsel appearing on behalf of the appellants submitted that this Court by way of the order in the case of **Viswanath** clarified that such of the teachers who were in employment as on 10th August 2017 and who have completed the diploma course of 18 months would be treated as valid diploma holders. It was, therefore, submitted that in light of the judgment of this Court in the case of **Jaiveer Singh** and the order passed by this Court in the case of **Viswanath**, the impugned judgment and order passed by the High Court be quashed and set-aside.

9. *Per contra* the learned Senior Counsel appearing on behalf of the respondent-authorities submitted that the judgment of this Court in the case of **Jaiveer Singh** specifically notes that the 18 months D. El. Ed. programme through NIOS was only to bring such of the in-service untrained teachers *at par* with the eligibility requirements. It is, therefore, submitted that such of the appellants who completed an 18 months D. El. Ed. programme *after the cut-off date of 31st March 2019* cannot be treated at par with such of the teachers who have completed a 2 years D. El. Ed. programme.

10. It is submitted by Shri Gupta that not only a valid diploma but also other requirements such as clearing the Teacher Eligibility Test (hereinafter, “TET”), etc., in terms of the recruitment notification dated 29th September 2022 issued by WBBPE have to be fulfilled so as to be considered for appointment to the post of a teacher in a school. It was, however, *fairly* submitted by the learned Senior Counsel that such of the appellants who fulfill the eligibility criteria in terms of the prevailing recruitment notification can be considered for appointment subject to proper verification regarding their eligibility and regularity.

11. The *only issue* before this Court in the present appeal, therefore, is to ascertain as to whether in light of the judgment of this Court in the case of **Jaiveer Singh** and the order of this Court in the case of **Viswanath** the impugned judgment and order of the High Court is liable to be quashed and set aside.

12. It cannot be gainsaid that in exercise of powers conferred under sub-section (1) of Section 23 of the RTE Act, the Central Government authorised the NCTE as the *academic authority* to lay down the minimum qualifications for a person to be eligible for appointment as a teacher. Pursuant thereto, on 28th November 2014, the NCTE *in supersession of the previous regulations* prescribed the 2014 NCTE Regulations. It is relevant to note that Clause 9 of the 2014 NCTE Regulations provides the “Norms and Standards” that every institution offering the teacher education programmes, as specified in Appendix 1 to 15 thereto shall have to comply with. Appendix 2 concerns the D. El. Ed. which is a 2-year professional programme that aims to prepare teachers for classes I to VIII. Appendix 9 is concerned with D. El. Ed. through ODL System and it is having duration of 2 academic sessions/years. It can, therefore, be seen that the D. El. Ed. programme, whether it is through regular mode (Appendix 2) or ODL System (Appendix 9) was envisaged as a 2-year programme by the NCTE.

13. It however so happens that on 3rd August 2017, the Central Government through MHRD apprised all the States and UTs that in terms of Section 23 of the RTE Act, the **in-service untrained elementary teachers** in the Government/Government Aided/Unaided-Private Schools are *required to be trained*. In order to give a statutory effect to the aforesaid letter, the Parliament carried out an Amendment in the RTE Act. The Act No. 24 of 2017 (2017 Amendment Act), therefore, added a second proviso to subsection (2) of

Section 23 of the RTE Act and the same was notified on 10th August 2017 by way of a Gazette Notification.

14. It is pertinent to note that the second proviso to subsection (2) of Section 23 of the RTE Act provides that every teacher appointed or in position as on 31st March 2015, who does not possess minimum qualifications shall acquire such minimum qualifications *within a period of 4 years* from the date of commencement of the 2017 Amendment Act. Accordingly, the date of commencement of the 2017 Amendment Act being 1st April 2015, the in-service untrained elementary teachers had to acquire the minimum qualifications by 31st March 2019. It can thus be seen that close to around 18-19 months were only remaining for such of the in-service untrained elementary teachers to acquire the minimum qualifications.

15. The NCTE, thereafter, on 22nd September 2017 passed a Recognition Order. It is relevant to note that the NCTE only after considering the recommendation of an Expert Committee sought to grant relaxation to certain provisions of the 2014 NCTE Regulations so as to ensure compliance with Section 23 of the RTE as it stood amended on 10th August 2017. The NCTE, therefore, reduced the duration of the D. El. Ed. through ODL System as recognized in Appendix 9 of the 2014 NCTE Regulations. The duration of the D. El. Ed. (ODL) programme was **reduced to 18 months instead of 2 years** by including/subsuming the 6 months internship within the 18 months. The NCTE also granted recognition/approval to NIOS for conducting the 18 months D. El. Ed. (ODL) programme through SWAYAM Portal of the MHRD for training of such of in-service untrained elementary teachers by 31st March 2019.

16. It appears that the appellants availed of the opportunity to complete their 18 months D. El. Ed. programme through NIOS in terms of the Recognition Order dated 22nd September 2017 passed by the NCTE.

17. The present *lis*, however, started with the issuance of a notification dated 29th September 2022 by the WBBPE for the recruitment of qualified trained candidates to the posts of Assistant Teachers in Government Aided/Government Sponsored/Junior Basic Primary Schools. On 6th July 2023, a Writ Petition came to be filed before the Calcutta High Court with a prayer that the High Court *direct* the respondent-authorities to *give preference* to such of the candidates who have completed their D. El. Ed. programme over a period of 2 years from recognized institutions over those candidates who have obtained their D. El. Ed. through the 18 months programme by NIOS. It was further their prayer that the High Court direct the respondent-authorities to not only *restrict* the 18 months NIOS trained candidates but also to *declare* that the 18 months programme by NIOS is not at all identical to the 2 years D. El. Ed. programme from a recognized institution.

18. During the pendency of the aforesaid Writ Petition before the High Court, this Court delivered the judgment in the case of ***Jaiveer Singh***.

19. The learned Single Judge of the High Court, therefore, *disposed of* the Writ Petition on 29th February 2024 with a direction to the WBBPE **to not recruit any teachers holding D. El. Ed. issued by NIOS under ODL mode i.e., the 18 months course from the recruitment process of the year 2022 onwards**. The intra-court appeal filed thereagainst came to be *dismissed* by a Division Bench of the High Court by way of the impugned judgment and order dated 24th July 2024. It is pertinent to note that the learned Single Judge of the High Court so also the Division Bench of the High Court placed reliance on the judgment of this Court in the case of ***Jaiveer Singh***. Aggrieved thereby, the present appeal came to be filed by way of a special leave.

20. It is, therefore, clear that to ascertain the validity of the impugned judgment and order passed by the Division Bench of the High Court it is imperative that we carefully consider the judgment of this Court in the case of ***Jaiveer Singh***.

21. This Court in the case of ***Jaiveer Singh*** was called upon to ascertain the correctness of the judgment and order dated 14th September 2022 passed by the High Court of Uttarakhand at Nainital in a bunch of Writ Petitions filed thereat. The Uttarakhand High Court had held that the 18 months D. El. Ed. conducted through the ODL mode by NIOS is a valid diploma for applying against the regular posts of Assistant Teachers (Primary) in the State of Uttarakhand.

22. Two sets of appeals were filed before this Court. The first by the candidates who are holding the 2 years D. El. Ed. whereas the second by the State of Uttarakhand.

23. It was the contention of the learned counsel appearing on behalf of the State of Uttarakhand therein that a qualification of 2 years D. El. Ed. was specifically prescribed by the NCTE. It would, however, be relevant to refer to the submission of the learned Senior Counsel appearing on behalf of the candidates who are holding the 2 years D. El. Ed., which reads thus:

“**21.** Mr. Uniya, on behalf of the appellants, has submitted that the 2014 Regulations clearly provide that the 2 years Diploma in Elementary Education was an essential qualification for appointment of teachers for Class I to VIII. It is further submitted that under Clause 4 of the 2014 Regulations, power is granted to NCTE to relax some of the provisions of the Regulations for such time period and subject to such conditions and limitations as it may consider necessary. It further provides that no relaxation would be granted under the Regulations with regard to minimum qualifications for appointment of teachers for Level 3 (Class I to VIII) as specified in the First Schedule.

It is further submitted that NCTE recognition order dated 22nd September 2017 for conducting D.El.Ed. programme by NIOS through ODL mode through the SWAYAM portal of the MHRD was only for the in-service Untrained Teachers at elementary level working in Government, Government Aided and Unaided Private Schools appointed on or before 10th August 2017. It is submitted that this is clear from the communication of NCTE dated 6th September 2019. It is further submitted that the said communication itself would clarify that insofar as minimum qualifications for appointment of teachers is concerned, it will be necessary to possess a 2 years Diploma in Elementary Education.” **(emphasis supplied)**

24. It can thus be seen that the learned Senior Counsel appearing on behalf of the candidates who are holding the 2 years D. El. Ed. specifically averred that the D. El. Ed. programme by NIOS through ODL mode through the SWAYAM portal of the MHRD was *only* for the in-service untrained teachers at elementary level working in Government, Government Aided and Unaided Private Schools appointed on or before 10th August 2017.

25. This Court, thereafter, considered Section 23 of the RTE Act, the 2017 Amendment Act, the 2014 NCTE Regulations, the letter by the Central Government dated 3rd August 2017, the Recognition Order dated 22nd September 2017 and observed thus:

“**40.** It is thus clear that the said recognition order was issued so that the directives of MHRD for implementing the 2017 Amendment Act were duly fulfilled. **It appears that since the time-gap between the directions issued by MHRD and 31st March 2019 was only about 18 months, the period of course was reduced from 2 years to 18 months.** This position would be clarified from the said recognition order itself, which reads thus:

“II. Any provision related to the duration of the Programme so as to reduce it to 18 months instead of 2 years and the requirement of 6 months internship to be subsumed within the duration of 18 months”

41. The letter dated 11th October 2017 addressed by the Additional Secretary, MHRD to the Secretaries to the State Governments would further clarify this position. **Around 12,91,880 in-service elementary teachers had registered and made payment on the NIOS portal as on 30th September 2017.** It is also clear from the said communication that the said course was exclusively made for ensuring that only in-service elementary teachers are registered for D.El.Ed. course.

42. It is further to be noted that a communication was addressed by the Additional Chief Secretary, Education Department, Government of Bihar seeking clarification with regard to appointment of Primary Teachers possessing D.El.Ed. (ODL) qualification from NIOS. It will be relevant to refer to the reply of NCTE dated 6th September 2019, which reads thus:

“I am directed to refer to your letter dated 29-08-2019 on the subject noted above and to say that your representation regarding appointment of primary teachers qualified with D.El.Ed. (ODL) from NIOS has been examined. The primary notifications are those dated 23-08-2010 and 29-07-2011 (determination of minimum qualifications for appointment of teachers, Appendix-9 and the order dated 22-09-2017 issued from NRC, NCTE to NIOS granting recognition to D.El.Ed. (ODL) Programme. The following points are inferred from the above notifications (copies enclosed).

I. As per the NCTE Notification dated 23-08-2010 and 29-07-2011 one of the minimum qualification for appointment of teachers for class I-V and VI-VIII is two year Diploma in Elementary Education.

(emphasis added).

II. As per the NRC NCTE order dated 22-09-2017 the D.El.Ed. (ODL) programme of NIOS is only for those un-trained in-service teachers in Govt./Govt. aided/private unaided schools appointed on or before 10-08-2017. The duration of this programme is 18 months.

(emphasis added)

2. Hence for the fresh appointment of teachers for primary and upper ‘primary level, the notification dated 23-08-2010 and 29-07-2011 need to be strictly adhered to TET is also a mandatory requirement.”

43. It can thus clearly be seen that as on 6th September 2019, it is also the view of the NCTE that the minimum qualifications for appointment of teachers for Class I to VIII is a 2 years Diploma in Elementary Education. **It further clarifies that NCTE recognition order dated 22nd September 2017 was only for those untrained in-service teachers in Government/ Government Aided/ Unaided Private Schools, who were appointed on or before 10th August 2017.** It further clarifies that for fresh appointment of teachers for Primary and Upper Primary level, NCTE notifications dated 23rd August 2010 and 29th July 2011 need to be strictly adhered to. It is further to be noted that whereas notifications dated 23rd August 2010 and 29th July 2011 specifically refer to powers conferred under sub-section (1) of Section 23 of the RTE Act, NCTE recognition order dated 22nd September 2017 refers only to the directives issued by MHRD under Section 29 of the NCTE Act.

44. It is thus clear that the entire scheme was for the purpose of providing a window to the in-service teachers inasmuch as unless they would have acquired requisite qualifications prior to 1st April 2019, they could not have continued to remain in service and would have faced dismissal from service. As such, we find that the High Court has erred in holding that the 18 months Diploma conducted by NIOS through ODL mode is equivalent to 2 years Diploma as provided in the notifications of NCTE dated 23rd August 2010 and 29th July 2011.”

(emphasis supplied)

26. It can thus be seen that this Court observed that since the time gap between the directions issued by Central Government (MHRD) and 31st March 2019 was only about 18 months, the period of the course was reduced from 2 years to 18 months. It can further be seen that this Court recorded that around 12,91,880 inservice elementary teachers had registered and made payment on the NIOS portal as on the 30th September 2017. Not only that but this Court also observed that the NCTE Recognition Order dated 22nd September 2017 was *only* for those untrained in-service teachers in Government / Government Aided / Unaided Private Schools, who were appointed on or before 10th August 2017. Pertinently this Court observed that the entire scheme was for the purpose of providing a window to the in-service teachers inasmuch as unless they would have acquired requisite qualifications prior to 1st April 2019, they could not have continued to remain in service and would have faced dismissal.

27. It can thus be seen that this Court specifically observed that the NCTE Recognition Order dated 22nd September 2019 was issued so as to provide a **one-time window** to the teachers who were already working as on 10th August 2017 and who were required to acquire the minimum qualifications prior to 1st April 2019. However, the Court clarified that the said Recognition Order did not act as a direction to the State of Uttarakhand to act in contravention of its 2012 Service Rules and the advertisement issued on the basis of such Service Rules. In that light therefore this Court came to a finding that the decision of the Uttarakhand High Court to hold the 18 months D. El. Ed. (ODL) through NIOS as equivalent to the 2 years D. El. Ed. (Appendix 2 of 2014 NCTE Regulations) or 2 years D. El. Ed. through ODL (Appendix 9 of the 2014 NCTE Regulations) was erroneous.

28. It is clear that *only* such of the teachers who were inservice as on 10th August 2017 but who had not acquired the minimum qualifications till then could have availed of the one-time scheme as sanctioned by the NCTE Recognition Order dated 22nd September 2019. Having availed of the one-time scheme, such of the teachers even though they only undertook the 18 months D. El. Ed. programme through NIOS they should be considered at par with a 2 years D. El. Ed., if they completed their 18 months programme through NIOS prior to 1st April 2019. Any other candidate who was not in-service as on 10th August 2017 cannot be considered to be at par with the 2 years D. El. Ed.

29. This Court in paragraph 56 of the aforesaid case crystallised the aforesaid position as follows:

“56. In view of what has been held by this Court hereinabove, we find that the High Court erred in holding that 18 months Diploma conducted by NIOS through ODL mode is equivalent to the 2 years regular Diploma, particularly so, when there was no material placed on record to even remotely hold that such a qualification was recommended by the Expert Body NCTE. On the contrary, the communication dated 6th September 2019 of NCTE, the directives of MHRD so also the recognition order dated 22nd September 2017 clearly go on to show that the 18 months Diploma was provided as a one time window to the in-service teachers to acquire the minimum qualifications between the 2017 Amendment Act and the outer limit of 1st April 2019. In our considered view, the High Court has totally erred in holding that the 2 years Diploma is equivalent to 18 months Diploma.”

30. Perusal of the judgment and order of the learned Single Judge of the High Court would show that the learned Judge referred to paragraphs 44, 45, 56 and 57 of the judgment of this Court in the case of ***Jaiveer Singh***. Further, the learned Judge observed that the D. El. Ed. offered by NIOS having a course period of 18 months under the ODL Mode is not recognized as a valid training qualification for recruitment to the post of Primary Teachers in India. Ultimately, the learned Judge directed the WBBPE **to not**

recruit any teachers holding D. El. Ed. issued by NIOS under ODL Mode, comprising of 18 months course, from the recruitment process of 2022 onwards.

31. On an intra-court appeal by some of the appellants, the Division Bench of the High Court *dismissed* the appeal.

32. It can therefore be seen that even though the learned Single Judge of the High Court placed reliance on paragraph 56 of the judgment of this Court in the case of ***Jaiveer Singh*** it came to the wrong conclusion inasmuch as it put a blanket ban on all teachers holding an 18 months D. El. Ed. through NIOS.

33. As observed hereinbefore, it is clear that the judgment of this Court in the case of ***Jaiveer Singh*** unequivocally held that the entire scheme emanating from the NCTE Recognition Order dated 22nd September 2017 was for the purpose of providing a window to the in-service teachers inasmuch as unless they would have acquired requisite qualifications prior to 1st April 2019, they would not have continued to remain in service and would have faced dismissal from service. As such, any teacher who was inservice as on 10th August 2017 and who acquired the qualification of D. El. Ed. by way of the 18 months programme through NIOS prior to 1st April 2019 is a valid diploma holder and at par with any other teacher who has completed the 2 years D. El. Ed. programme.

34. On this ground itself, we are of the considered view that the Division Bench of the High Court erred in not interfering with the judgment and order of the learned Single Judge.

35. We, however, also have the benefit of the order dated 10th December 2024 passed by this Court. The same was not available to the Division Bench at the time of passing of the impugned judgement and order.

36. By an order dated 10th December 2024 this Court, disposed of a batch of Review Petitions and Miscellaneous Applications filed in connection with the judgment of this Court in the case of ***Jaiveer Singh***. It would be relevant to refer to the order dated 10th December 2024 in full, which is as follows:

“1. The grievance sought to be raised on behalf of the review petitioners and some of the applicants before this Court is that though they were in employment and covered by the recognition order dated 22.09.2017, they believe that the judgment and order of this Court dated 28.11.2023 (hereinafter ‘judgment under review’) would come in their way if they want to make better their prospects by applying either in other institutions or for promotional avenues.

2. **We have already clarified in the judgment under review that the onetime scheme was provided solely to safeguard the interests of those teachers who were employed as on 10.08.2017. We are, therefore, not inclined to entertain the present review petitions as well as miscellaneous applications.**

3. **However, to avoid any confusion, we again clarify that the 18 months diploma obtained by such persons, who were in employment as on 10.08.2017 and who have completed the diploma course of 18 months, would be treated as valid diploma holders for the purpose of applying in other institutions or for promotional avenues.**

4. **Needless to state that the clarification will be effective from the date of pronouncement of the judgment under review.**

5. With the aforesaid clarification, the review petition(s) as well as all miscellaneous applications, including all the pending applications, are disposed of.”

(emphasis supplied)

37. It can thus be seen that this Court observed that it had already clarified in the judgment of ***Jaiveer Singh*** that the onetime scheme was provided solely to safeguard the

interests of those teachers who were employed as on 10th August 2017. It can further be seen that to avoid any confusion, this Court in the review petition again clarified that such of the teachers who acquired the 18 months D. El. Ed. through NIOS and who were in employment as on 10th August 2017 would be treated as a **valid diploma holder** for the purpose of applying in other institutions or for promotional avenues. It was further made clear that the clarification issued by this Court on 10th December 2024 would be effective from the date of pronouncement of the judgment of this Court in the case of **Jaiveer Singh** i.e., 28th November 2023.

38. Not only that but this Court on 5th March 2025 by a judgment in **IA No. 37419 of 2025 in T.P. (C) No. 42-43 of 2025** titled as “**Viswanath vs. The State of Uttarakhand & Ors.**” faced with a similar fact situation, once again held that such of the teachers who were in employment as on 10th August 2017 and who had undertaken the 18 months D. El. Ed. through NIOS would be treated as valid diploma holders for the purposes of applying to other institutions or for promotional avenues.

39. It is, therefore, clear that in light of the judgment of this Court in the case of **Jaiveer Singh** so also the order dated 10th December 2024 in the case of **Viswanath**, the impugned judgment and order of the High Court is not sustainable.

40. We, therefore, pass the following order:

- i. The appeal is allowed;
- ii. The judgment and order dated 29th February 2024 passed by the learned Single Judge of the High Court is quashed and set aside;
- iii. The judgment and order dated 24th July 2024 passed by the Division Bench of the High Court is quashed and set aside;
- iv. The Writ Petition being W.P.A. No. 16118 of 2023 is dismissed.
- v. We clarify that such of the teachers who were in employment as on 10th August 2017 and who completed the 18 months D. El. Ed. (ODL) programme through NIOS before 1st April 2019 shall be considered as valid diploma holders for the purpose of applying in other institutions and/or for promotional avenues.
- vi. We direct the respondent-authorities to consider the candidature of such of the appellants who were inservice as on 10th August 2017 and that who, on verification, are found to satisfy the eligibility criteria shall be appointed within a period of three months from today.

41. Pending application(s), if any, shall stand disposed of in the above terms.