

Court No. - 32

Case :- WRIT - A No. - 1512 of 2022

Petitioner :- Prateek Mishra And 4 Others

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Taniya Pandey

Counsel for Respondent :- C.S.C., Dhananjay Awasthi, Rishi Shrivastava

Hon'ble Siddharth,J.

This writ petition has been filed praying for direction to the respondent no. 3 not to declare the result of B.Ed. qualified candidates, who appeared in the Uttar Pradesh Teacher Eligibility Test (Primary Level), 2021, which was held on 23.01.2022 in the first meeting (10 a.m to 12:30 p.m.), in light of the fact that B.Ed. degree holders have been declared ineligible for appointment to the post of Assistant Teacher in primary schools (Classes I to V) by the Rajasthan High Court on 25.11.2021, rendering declaration of their result futile.

Petitioners No. 1 and 2 have Diploma in Elementary Education (D. El. Ed.) degrees and Teacher Eligibility Test (TET) certificate and Petitioners No. 3 to 5 have cleared Basic Teacher Certificate (B.T.C.) (correspondence) and Teacher Eligibility Test (TET). All the petitioners are qualified to apply for the Assistant Teacher in Junior Basic Schools as per National Council for Teacher Education (NCTE) Notifications.

By virtue of Notification of the NCTE dated 28.06.2018, B.Ed. candidates, who were earlier ineligible for appointment to the post of Assistant Teacher in primary schools (classes I to V) were made "eligible, subject to acquiring eligibility. This Notification dated 28.06.2018 was challenged before the Hon'ble Rajasthan High Court in ***Rajendra Singh Chotiya & another v. The National Council for Teachers Education & others, D.B. Civll Writ Petition No. 1853/2021, and connected matters.***

Rajasthan High Court, vide Judgment dated 25.11.2021, passed in the aforesaid case, set aside the Notification dated 28.06.2018 and held that B.Ed. degree holders could not be eligible for appointment to the post of Teacher at the primary school level (classes I to V).

Rajasthan High Court concluded that the aforesaid Notification dated 28.06.2018 was unlawful because:

"(a) it is under the direction of the Central Government, which power the Central Government under Subsection (1) of Section 23 of the RTE Act did not have; And

(b) it is not in exercise of power of the Central Government under Sub-section (2) of Section 23 of RTE Act relaxing the eligibility criteria prescribed by the NCTE, nor there has been any exercise for ascertaining existence of the conditions precedent for exercising such power."

It has been submitted that in the State of U.P., the state government has not considered the judgment of the Rajasthan High Court and the results of the examination of U.P.T.E.T have been declared on 25.02.2022 and certificates are about to be distributed to the selected candidates.

In the counter affidavit filed on behalf of the respondent no. 3, it has been admitted that the notification dated 26.06.2018 has been quashed by the Rajasthan High Court and if any notification is made in pursuance of the aforesaid judgment the same shall be complied.

Learned counsel for the petitioner has submitted that it is for the state government to issue appropriate notification.

Learned Standing Counsel will seek instructions in this regard whether any notification has been issued in the state of U.P. as per the judgment of the Rajasthan High Court noted above.

Put up this case as a fresh case on **16.05.2022**.

Till the next date, no certificate shall be issued in favour of the candidates who have qualified the U.P.T.E.T (Primary level) Examination, 2021, which was held on 23.01.2022.

Order Date :- 12.5.2022

Rohit