2026:HHC:48731

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.6967 of 2025
Date of decision: 04.11.2026

Som Krishan **…..Petitioner**

Versus

State of H.P. and others **…..Respondents**

Coram

The Hon'ble Mr. Justice Ajay Mohan Goel, Judge.
The Hon'ble Mr. Justice Yogesh Jaswal, Judge.

Whether approved for reporting?[1] Yes

For the Petitioner **:** Mr.Naresh Sharma, Advocate.

For the Respondents **:** Mr. Anup Rattan, Advocate General with Mr. Pushpender Jaswal, Additional Advocate General for respondents No. 1 & 2.

Ms. Shivani, Advocate vice Mr.Chander Shekhar, Advocate, for respondent No.3.

Mr. Vishwajeet Singh, Advocate, for respondent No.4.

Ajay Mohan Goel, Judge (Oral)

By way of this writ petition, the petitioner has, inter alia, prayed for the following reliefs:-

> "A. The respondents No.1-2 may kindly be directed to amend the Rule 7 of Recruitment and Promotion Rules notified vide notification dated 10.10.2024 by incorporating the qualification of Post Graduation in addition to qualification already prescribed therein, strictly as per the notification dated 13.11.2019 issued by NCTE for the consideration for the post of Special Educator.

[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?Yes***

2026:HHC:48731

B. That the impugned condition No.3 (Six months training of teacher in cross disability area in inclusive education) imposed by respondent No.3 for appearing in Teachers Eligibility Test (TET) in prospectus may kindly be quashed and set aside being contrary to the R & P Rules.

C. The respondent No.3 may kindly be directed to permit the petitioner to appear in the TET Examination for Special Educator."

2. The petitioner has assailed Recruitment and Promotion Rules, framed by the respondent-Department on 10.10.2024 i.e. H.P. Elementary Education Department, Special Educator (for Class-VI to Class-XII), Group-C (Non-Gazetted) Recruitment & Promotion Rules (hereinafter referred to as "2024 Rules"). In terms of the 2024 Rules, the post of Special Educator (for Class-VI to Class-XII) is to be filled in by way of Direct Recruitment 100% from amongst candidates who possess the educational qualifications mentioned in Column No.7 thereof, one of which essential qualification is not possessed by the petitioner. To be more precise, in terms of Clause 7 of the 2024 Rules, the essential qualifications to be eligible to participate in the process of appointment to the post of Special Educator are as under:

"7.	Educational Qualifications:	(a) Essential qualification:- (I) Graduation in any stream from a recognized University with at least 50% marks. (ii) Bachelor of Education Degree (Special Education) from a Rehabilitation Council of India (RCI) approved institution possess a valid RCI & CRR number. OR B.Ed. With a recognized qualification (Certificate/Diploma) from a

2026:HHC:48731

		Rehabilitation Council of India (RCI) approved institution possess a valid RCI & CRR number. (iii) Six-month training of teaching in cross disability area in inclusive education(**) AND (iv) Pass in Teacher Eligibility Test (TET) duly conducted by H.P. Board of School Education Dharmashala, District Kangra or any other Agency authorized by the Government. (**) If the proposed programme (cross disability top up courses being developed by RCI as on in service training is not available same may be dropped from the qualification with a condition that those recruited with D.Ed./B.ED. Special Education have to compulsory undergo aforesaid training as soon as same is conducted.”

As per the 2024 Rules, the candidate should inter alia be a Graduate in any stream from a recognized University with at least 50% marks. The petitioner herein though is possessing the other qualifications mentioned in the said Column No.7, however, in his Graduation, he has not secured at least 50% marks.

3. Learned counsel for the petitioner argued that in the light of the fact that as per Annexure P-3, which is a notification issued by the National Council for Teacher Education (NCTE) dated 13.11.2019 under Section 23(1) of the Right of Children to Free and Compulsory Education Act, 2009, the condition of 50% marks in Graduation is coupled with the condition of 50% marks either in

2026:HHC:48731

Graduation or Post-Graduation, as the petitioner has done Post-Graduation and was having more than 50% marks in Post-Graduation, therefore, the non-amendment of the 2024 Rules by the respondent-State to incorporate therein minimum qualification of Post-graduation also therein is bad in law.

4. Learned counsel submitted that in view of the said notification as the National Council for Teacher Education has amended the condition of 50% marks in Graduation by adding that 50% marks can either be in Graduation or Post-Graduation, the act of the respondents of not incorporating the said condition in the Recruitment and Promotion Rules is causing hardship to the petitioner. Accordingly, learned counsel for the petitioner prayed that the respondents be directed to carry out the said amendment in the relevant Recruitment and Promotion Rules for the post of Special Educators issued vide notification dated 13.11.2019.

5. Learned counsel also submitted that as at the time when the petitioner did his Graduation obtained other qualifications, a Graduate with 45% marks was eligible for being appointed as Special Educator, therefore, his suitability for appointment has to be seen as per the Rules prevailing at that time.

6. No other point was urged.

7. On the other hand, learned Advocate General referred to reply filed by the respondent-State and submitted that present

2026:HHC:48731

writ petition is totally misconceived. He took the Court to the preliminary submissions made in the reply filed by the State and submitted that the notification of the NCTE being relied upon by the learned counsel for the petitioner does not relate to a Special Educator. He submitted that in light of the contents of the said notification, which deals with teachers other than Special Educators, the petitioner cannot maintain the petition against the respondents to amend the Recruitment and Promotion rules relating to the appointment of Special Educators by referring to the notification issued by NCTE which does not relate to Special Educators.

8. Having heard learned counsel for the parties and having carefully gone through the pleadings as also documents appended with the same, we are of the considered view that the present petition indeed is misconceived.

9. The educational qualifications prescribed in the Recruitment and Promotion Rules for appointment to the post of Special Educator from pre-primary to Class-V demonstrate that for said post, a candidate is required to have passed 10+2 from recognized Board with at least 50% marks or Graduation in any stream from a recognized University. Herein, Rules are clear that if a candidate applying for the post was only 10+2 pass, then he should have at least 50% marks in 10+2, but in case, he was a Graduate,

2026:HHC:48731

then the condition of possessing 50% marks was not there. These rules are on record in terms of notification dated 10.10.2024 itself.

10. When it comes to the other Notification of the even date issued by the Department, which relates to the post of Special Educator itself but for Class-VI to Class-XII i.e. the impugned Notification therein, the minimum educational qualifications prescribed is Graduation in any stream from a recognized University with at least 50% marks and other qualifications mentioned therein.

11. This means that the Employer/Department was aware of its necessities and requirements and the kind of qualifications which a candidate should possess while applying for the post of Special Educator, be it for classes pre-primary to Class-V or Classes-VI to Class-XII.

12. Whereas, in the Rules relating to appointment to the post of Special Educator for pre- primary to Class-V, the minimum qualification of 10+2 prescribed is with 50% marks or Graduation without any embargo of 50% marks, but for Special Educator for Class-VI to Class-XII, the minimum qualification is Graduation with at least 50% marks.

13. Herein, it is not the case of the petitioner that besides the essential qualification of Graduation with at least 50% marks, other qualifications which have been prescribed by the Department are totally alien to the post of Special Educator. In fact, there is no

2026:HHC:48731

dispute that as far as the other qualifications are concerned, they have been prescribed in the Recruitment and Promotion Rules taking into consideration the post, to which the appointment is to be made as per the Right to Education Act.

14. In this backdrop, in light of the fact that it is the domain of the employer as to what should be the Recruitment and Promotion Rules and what should be the conditions therein including qualifications, according to us, the inclusion of qualification of Graduation with at least 50% marks is not such a condition which can be termed as arbitrary and Unconstitutional so as to call for interference by us. Simply because the petitioner does not possess 50% marks in Graduation, the same does not mean that the Rules are or condition is *ultra vires*.

15. Now, coming to the relief prayed for by the petitioner that a mandamus be issued to the respondents that the 2024 Rules be amended as per notification dated 13.11.2019 issued by NCTE, we find force in the submission made by the learned Advocate General that the NCTE notification being relied upon by the petitioner does not relate to the post of Special Educator. That being the case, the petitioner cannot place any reliance on the said instructions.

16. In fact, when this case was listed on 15.10.2026, we had passed the following order:-

2026:HHC:48731

> "Heard further. In our considered view, more so in light of the reply that has been filed to the writ petition by the State, the reliance of the petitioner upon notification dated 13.11.2019 (Annexure P-3), is of no assistance to the petitioner, because, prima facie, this notification does not deal with the post of a Special Educator. In terms of the Recruitment and Promotion Rules dated 10.10.2024 framed qua the post of Special Educator, as the minimum qualification required is Graduation in any stream from a recognized University with at least 50% marks and the petitioner is not possessing a Graduation decree with 50% marks, he is not eligible for being considered for appointment against the post of Special Educator.
>
> Faced with this situation, learned counsel for the petitioner submits that the hearing of this case be deferred by some time to enable him to make some research as to whether the National Council for Teacher Education has issued any notification, akin to notification dated 13.11.2019 qua the posts of Special Education or not.
>
> To enable learned counsel for the petitioner to do the needful, we adjourn the case by two weeks.
>
> List on 04.11.2026."

17. Learned counsel for the petitioner has not been able to place on record any notification etc. issued by NCTE for the post of Special Educator akin to the one, upon which the petitioner is relying.

18. Therefore, in light of the above observations as we do not find any merit in the present petition, the petition is dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

04th November, 2026.
(**yogesh**)