

ITEM NO.301

COURT NO.5

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

MISCELLANEOUS APPLICATION..... Diary No. 4303/2024

(Arising out of impugned final judgment and order dated 11-08-2023
in C.A. No. 5068/2023 passed by the Supreme Court Of India)

DEVESH SHARMA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 77741/2024 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 75789/2024 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 75728/2024 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 23533/2024 - CLARIFICATION/DIRECTION
IA No. 75917/2024 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 77742/2024 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 75730/2024 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 75717/2024 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 78146/2024 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 77586/2024 - EXEMPTION FROM FILING O.T.
IA No. 23534/2024 - EXEMPTION FROM FILING O.T.
IA No. 75313/2024 - INTERVENTION APPLICATION
IA No. 75293/2024 - INTERVENTION APPLICATION
IA No. 75859/2024 - INTERVENTION APPLICATION
IA No. 54821/2024 - INTERVENTION APPLICATION
IA No. 78847/2024 - INTERVENTION APPLICATION
IA No. 75715/2024 - INTERVENTION APPLICATION
IA No. 78144/2024 - INTERVENTION APPLICATION
IA No. 75912/2024 - INTERVENTION/IMPLEADMENT
IA No. 72691/2024 - INTERVENTION/IMPLEADMENT
IA No. 77667/2024 - INTERVENTION/IMPLEADMENT
IA No. 77585/2024 - INTERVENTION/IMPLEADMENT
IA No. 77070/2024 - INTERVENTION/IMPLEADMENT
IA No. 78428/2024 - INTERVENTION/IMPLEADMENT
IA No. 76561/2024 - INTERVENTION/IMPLEADMENT
IA No. 76478/2024 - INTERVENTION/IMPLEADMENT)

Date : 08-04-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE
HON'BLE MR. JUSTICE SUDHANSHU DHULIA

For Parties

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UPON hearing the counsel the Court made the following
O R D E R

I.A. Nos. 248199 of 2023 and 248207 of 2023
are allowed.

On 11th August, 2023, this Court dismissed a set of appeals against a judgment of the Rajasthan High Court dated 25th November, 2021. The dispute involved in these proceedings pertained to eligibility of B.Ed. Candidates to be appointed as teaching staff in cases where they did not have D.El.Ed, which is a diploma course. The Rajasthan High Court had held that at the primary level, the eligibility criteria would be D.El.Ed. qualification which is a diploma course and not B.Ed. The High Court had quashed a notification of the Central Government dated 28.06.2018 by which B.Ed. was

included as a qualification for teachers at Primary level i.e. for class I to class V, and in a judgment delivered by this Court on 11.08.2023, appeals filed against the said judgment were dismissed.

Now, an application has been taken out by the State of Madhya Pradesh, labelling it as an application for clarification and the applicant seeks for us to hold that the said judgment ought to have prospective application only. Though framed as an application for clarification, it is in the nature of a review petition only. Though the applicant here is the State of Madhya Pradesh, the said dispute is the subject-matter of a large number of litigations in various states and we are apprised that in some High Courts, the matters are pending.

Before us, two sets of parties are there, one set wants retention of the said judgment in its present form. The opposing side alleges that it would result in loss of employment to those who were already appointed as teachers in different States on the strength of their B.Ed degree. It is submitted that they had entered their employment following a legitimate course as per the notification issued by the respective appointing authorities which did not stipulate D.El.Ed. to be the only requisite qualification.

Now, having considered these factors and particularly the contention of the B.Ed. applicants that they had entered their employment as per the qualification criteria specified by the appointing authority, equity should go in favour of retention of their employment.

Two points have been urged taking objection to the plea of the present applicant i.e., the State of Madhya Pradesh. The first one is that this application has been framed as one for clarification and actually, an independent relief is asked for in this application. We have referred to this aspect of the controversy earlier in this judgment. In our opinion, this kind of applications seeking clarification ought not to be entertained and if a final order is passed, the only recourse for seeking alteration of the order is a petition for review on legally permissible ground. Considering the pleadings in this application seeking clarification, we treat this application as a petition for review. We are addressing this issue also in exercise of our jurisdiction that inheres in a Court of record, having regard to Article 129 of the Constitution of India. A technical plea was raised on behalf of the parties who opposed prospective application of this judgment on the ground that procedure for review as

specified in the Supreme Court Rules was not followed and that no opportunity to file affidavits was being given. But having regard to the scope of the present application, we did not consider it necessary to invite further pleadings. Otherwise also, conversion of an application labelled as one for clarification into a review petition at the time of hearing would not be a fatal procedural flaw.

In the given facts, we find that the question as to whether the judgment would be prospective or not was not stated by us in the judgment delivered on 11th August, 2023. Ordinarily a judgment acts retrospectively unless it is specifically stated to be otherwise. Moreover, this matter has been heard on several occasions and the points urged by the respective parties have been taken note of by us.

As it appears that a large number of candidates with B.Ed. degree had already been appointed on the basis of eligibility criteria specified by the educational authorities, we do not think it to be equitable to effect their removal. We, accordingly hold that the judgment delivered by this Bench on 11th August, 2023 shall have prospective operation. But prospective operation of this judgment shall be only for those candidates who were appointed without any qualification or conditions imposed by

any Court of Law to the effect that their appointment would be subject to final outcome of the case which might have had been instituted by them and such candidates were in regular employment without any disqualification and were appointed in pursuance of a notice of advertisement where B.Ed. was stipulated to be valid qualification. Services of only such candidates shall not be disturbed because of this judgment. We make it clear that this benefit is only for the candidates who were appointed prior to the date our judgment was delivered, on 11th August, 2023. Mere selection of such candidates or their participation in the process will not entitle them for a benefit under our present order.

Moreover, the candidates having B.Ed. qualification whose appointments we are protecting in this judgment, will have to undergo a bridge course and we direct the educational authorities to device such course, which would be applicable for each state and union territory, within a period of one year from today. This course shall be only for those appointees who have been engaged with B.Ed. degree only in the subject-posts under conditions stipulated in the earlier part of this order. National Council for Teacher Education shall design such course under overall supervision of the Ministry of Education,

Union of India. Upon formulation of such course, the same shall be publicly notified and a timeframe shall also be given within which the respective candidates shall participate therein. Failure of any candidate to participate and complete the course within the timeframe to be given by the concerned educational authorities will invalidate the appointment of such candidate.

We also make it clear that the directions contained in this order shall not be confined to the applicant state only and shall cover all cases which may be pending in different judicial fora in any State or Union territory on the same point of law.

The present application stands disposed of in the above terms.

Pending application(s), if any, shall also stand disposed of.

(SNEHA DAS)
SENIOR PERSONAL ASSISTANT

(VIDYA NEGI)
ASSISTANT REGISTRAR