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CWP-13816-2020**RAJESH KUMAR & ORS V/S STATE OF HARYANA & ORS**

Present : Petitioner No.1 Rajesh Kumar and
Petitioner No.3 Vikas Malik in person.

Mr. Mukesh Ahuja Secretary, Haryana Public Service Commission.

Mr. Anshaj Singh, Director, School Education, Haryana.

Mr. Gautam Narula, Deputy District Attorney, Haryana Public
Service Commission.

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Through the present petition the primary challenge is made to the academic qualifications prescribed in the Haryana State Education School Cadre (Group-B) Service Rules, 2012 (for short – the Rules) for appointment of a Post Graduate Teacher (Computer Science).

According to petitioners the minimum qualifications prescribed by the National Council for Teacher Education, New Delhi (for short – the Council) for appointment of a Post Graduate Teacher (Computer Science) is Post Graduate with at least 50% marks in the relevant subject and Bachelor of Education from an institution recognized by the Council; in the Rules and based on the Rules in the advertisement in question, the prescribed qualification for appointment of a Post Graduate Teacher (Computer Science) is only M.Sc. Computer Science (Regular two year course)/Master in Computer Application (Regular three year course)/B.E./B.Tech Computer Science/Computer Engg./IT (Regular course) with 55% aggregate marks from a recognized university; the impugned qualifications are at variance with the minimum academic qualifications prescribed by the Council and

that the minimum qualifications prescribed by the Council are binding on the State.

In support of the afore submissions reliance is placed by the petitioners on the judgment of the Supreme Court in ***Devesh Sharma Vs. Union of India and others – Civil Appeal No.5068 of 2023 decided on 11.08.2023.***

A short reply has been filed on behalf of the State of Haryana through which the afore factual position is admitted. It is further submitted that as per Clause 5 of the Guidelines dated 12.11.2014 issued by the Council the State has written a letter dated 12.09.2023 to the Council through which relaxation is sought from the Council to go ahead with the selections in question without insistence of B.Ed. with Post Graduation in Computer Science as an essential qualification. However, till date no response from the Council has been received.

The State has itself written to the Council seeking relaxation in the minimum qualifications prescribed in its Rules and published by it in the advertisement in question. Meaning thereby, the State acknowledges that the minimum qualifications prescribed in its Rules and the consequent advertisement are at variance with the minimum qualifications prescribed by the Council and that to go ahead with the selections, it needs the Council's nod.

In view of the above, we consider it just and appropriate to direct that till the adjourned date the State be restrained from holding the Subject Knowledge Test for appointments to the post of Post Graduate Teacher (Computer Science).

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Adjourned to 16.10.2023.

Before the adjourned date the Council is also directed to take an appropriate decision on the request made by the State seeking relaxation of the qualification prescribed by it in its aforesaid letter dated 12.09.2023.

Before the adjourned date the petitioners shall implead the NCTE, New Delhi.

A copy of the order be served upon Mr. Satya Pal Jain, Additional Solicitor General of India for compliance.

**(DEEPAK SIBAL)
JUDGE**

28.09.2023
sunil yadav

**(SUKHVINDER KAUR)
JUDGE**