

HIGH COURT OF MEGHALAYA
AT SHILLONG



MC (WA) No.57/2023

Reserved on: 20.02.2024
Pronounced on: 05.04.2024

Shri Mofiqul Islam

Shri. Akramuzzaman Akond

..... Applicants

Vs.

1. State of Meghalaya, represented by Commissioner and Secretary, Education Department, Government of Meghalaya, Shillong.
2. The Director of School Education & Literacy, Shillong, Meghalaya.
3. The Sub-Divisional School Education Officer, Dadenggre, West Garo Hills, Meghalaya. Respondents

Coram:

Hon'ble Mr. Justice S.Vaidyanathan, Chief Justice
Hon'ble Mr. Justice W.Diengdoh, Judge

Appearance:

For the Applicants : Mr. S.A. Sheikh, Adv

For the Respondents : Mr. A. Kumar, Advocate General with
Mr. N.D. Chullai, AAG
Ms. Z.E. Nongkynrih, GA

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| i) Whether approved for reporting in Law journals etc.: | Yes |
| ii) Whether approved for publication in press: | Yes |

ORDER

(Made by Hon'ble, the Chief Justice)

The present Miscellaneous Application has been filed in W.A. No.5 of 2022, which was already disposed of as early as on 08.03.2022, permitting the untainted teachers to participate in the fresh selection process. It is not known as to how the applicants seek such permission

to participate in the personal interview for appointment of Government L.P. School teacher scheduled to be held between 05.01.2024 and 09.01.2024 in a decided matter.

2. Earlier, in the Writ Appeal in WA No.52 of 2011, a Division Bench of this Court had elaborately dealt with the issue and passed the following judgment on 02.11.2017:

“1(c) However, all the untainted/unblemished candidates of the said five Centres, whether in service or not, shall be allowed to participate in the fresh selection process, if otherwise eligible in accordance with the presently applicable Rules/Guidelines, without necessity of their applying afresh. In this regard it is also provided that none of such untainted/unblemished candidates shall be treated as age-barred if he/she was within the age prescribed by the notification dated 24.11.2008.”

3. Learned counsel for the applicants vehemently argued that the applicants are entitled to participate in the fresh selection process and that the qualification of Meghalaya Teacher Eligibility Test (MTET) cannot be insisted upon. The applicants relied upon the notification dated 01.07.2020 and contended that the condition laid down in Section 23 of the RTE Act, 2009 was made applicable only from that date and that even though the applicants were unsuccessful in the examination, subsequently, it was nullified on account of HSLC and CBI reports. Learned counsel for the applicants submitted that the applicants as such

Sd/-



were untainted and unblemished candidates and therefore, are entitled to participate in the fresh selection process. Learned counsel pointed out that after induction into service, in terms of Section 23(2), a Teacher will have five years' time to clear the Teacher Eligibility Test (TET), which may be mandatory and at the threshold MTET is not required for the purpose of entry into service.

4. Learned Advocate General appearing for the State respondents contended that the present Miscellaneous Application itself is not maintainable on the ground that in a disposed of matter, a miscellaneous application cannot be filed seeking permission to participate in the interview. That apart, learned Advocate General further contended that in the light of the directions given by this Court in W.A.No.52 of 2011 dated 02.11.2017, more so, in Clause 1(c), which is extracted supra, a person must be eligible in accordance with the present applicable Rules / Guidelines without necessity of their applying afresh. Learned Advocate General further contended that it is also provided that none of such untainted and unblemished candidates shall be treated as age bar if he or she was within the age limit by the notification dated 24.11.2008. Thus, it was his contention that in terms of the notification, a person must be eligible as per the present Rules and Guidelines and that only age relaxation has been granted in the judgment. Learned Advocate

Sd/-



General also drew the attention of this Court to the notification dated 01.04.2015 that NCTE norms have come into effect from 23.08.2010 and only those candidates who fulfil the NCTE norms should alone be considered for appointment as Assistant Teacher in L.P./U.P. schools. The applicants should have acquired requisite qualification, namely, MTET in terms of the NCET norms in 2017 and MTET is mandatory for considering and appointing a person as a teacher. Learned Advocate General verbally stated that the applicants have appeared for MTET examination thrice and failed in all their attempts. However, this averment does not find place in the present application. Hence, the applicants are not entitled to any relief.

5. Heard both the parties.

6. It is not in dispute that TET has come into effect from 2011. Though the applicants may be untainted persons having unblemished records, for appointment as a teacher, the applicants should clear the MTET. The notification issued on 01.07.2020 is only a reiteration of the previous notification dated 23.08.2010 in respect of possession of minimum qualification. As per the letter dated 01.04.2015 issued by the respondent No.2, NCTE norms should be followed scrupulously, one of

Sd/-



which is that a person should have cleared TET for appointment as an Assistant Teacher.

7. In this case, the applicants have not cleared TET, which has been admitted by the applicants themselves. Their case can at the most be considered for relaxation of the age, as if he or she was within the age prescribed by the notification dated 24.11.2008 and not otherwise.

8. Learned Advocate General across the bar brought to our notice that the order of the Division Bench of this Court has been confirmed by the Supreme Court and despite three attempts, the applicants had not cleared TET.

9. For all the aforesaid counts, the appellants are not entitled to any relief. Last but not the least, in a concluded matter, Miscellaneous Application is not maintainable. If the applicants had any doubt about the direction issued by the Court, they should file a review seeking review of the order. Now, much water has flown and that the Apex Court has also confirmed the order of this Court, holding that MTET is mandatory. In the light of the judgment in 2023 SCC OnLine SC 985 in the case of Devesh Sharma v. Union of India, the norms prescribed by NCTE have got to be followed and that in terms of Section 23(1) of the

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RTE Act, 2009, a candidate must have cleared MTET for the purpose of considering his/her case for appointment as Assistant Teacher. In view of the same, the relief sought for by the applicants cannot be granted. Accordingly, MC (WA) No.57/2023 is dismissed. Though it is a fit case for imposing costs, taking note of the fact that the applicants are seeking employment, this Court refrains from imposing any cost.

Sd/-
(W.Diengdoh)
Judge

Sd/-
(S.Vaidyanathan)
Chief Justice

Meghalaya
05.04.2024
"Lam DR-PS"

PRE-DELIVERY ORDER IN
MC (WA) No.57/2023



True Copy
Sd/- 08/04/24
Asst. Registrar
The High Court of Meghalaya
Shillong