



SYNOPSIS

1. The Petitioners are constrained to file the present Writ Petition before this Hon'ble Court under Article 32 on account of the arbitrary, illegal and malafide manner in which the Respondents are seeking to deny the right to the Petitioners to appear in the TGT/PGT examination for appointment of Assistant Teachers in the State of U.P., despite clear orders being passed to that effect by this Hon'ble Court on 26.8.2020 and 28.6.2021. The Petitioners herein are all teachers who had been appointed in due exercise of powers under section 16E (11) of the U.P. Intermediate Act, 1921 and have been working in the said institutions continuously, however, their salaries were being arbitrarily withheld by the Respondents.
2. This Hon'ble Court, vide Order dated 26.8.2020 had directed that salaries ought to be paid to Petitioners and similarly situated teachers and furthermore, they would be permitted to appear in one single examination for appointment of teachers to be carried out by the State of U.P. Vide Order dated 28.6.2021 this Hon'ble Court had clarified that date of disbursement of salary cannot be a condition for applying under the advertisement dated 16.3.2021. Accordingly a corrigendum to the advertisement was also issued



on 8.7.2021, however, the Petitioners were not allowed to submit their forms despite being fully eligible.

3. Under the advertisement dated 16-03-2021, the work of the Petitioners was not accepted on the website of the Secondary Education Selection Board because the salary of the Petitioners was not released by the Respondents. Whenever the Petitioners tried to submit the form on the website of Secondary Education Board, the date of payment of salary to the Petitioners from the Treasury was sought as a mandatory detail, and the absence of filling the same the form was not accepted online. Even under the corrigendum dated 8.7.2021 the Petitioners have not been permitted to apply as the portal has not been opened and only a compliance on paper is sought to be made of the directions passed by this Hon'ble Court on 28.6.2021. Thus, for all such persons whose payment was wrongly withheld by the Respondents, are being denied a chance to appear in the examination by not accepting their forms.
4. The Petitioners are accordingly seeking *inter alia* a writ / order / direction in the nature of mandamus to the Respondents directing that the last date for filling up applications forms under Advertisement No. 1/2021 and 2/2021 issued by the Respondent No. 2 be extended in order to enable the Petitioners to fill the said



online application forms for vacancies as per Clause 1(9) as amended by corrigendum 08.07.2021 issued by the Board. The Petitioners are further seeking a writ/ order/direction in the nature of mandamus directing the Board to allow the Petitioners to appear in the examination for the post of TGT/PGT scheduled to be held on 7th/8th August and 17th/18th August. The Petitioners alternatively, seek writ/ order/direction in the nature of mandamus directing the Board to keep sufficient posts vacant for TGT/PGT teachers if the Petitioners are not allowed to take the examinations scheduled to be held on 7th/8th August and 17th/18th August.

5. That persons similarly situated as the Petitioners who were duly appointed under section 16E (11) of the U.P. Intermediate Act, 1921 were not granted salary by the concerned authorities and therefore, a writ petition (Writ A No. 48244 of 2017) was filed by them before the Allahabad High Court wherein the High Court passed orders that adhocism which was prevailing in the working of the education system should be brought to an end and directed Respondents to consider the representations of the teachers and further to release arrears of salary by granting them the requisite financial approval. Similar orders were passed in case of the Petitioners as well.



6. That the Respondent Aggrieved by the Order dated 31.10.2017 passed in Writ A. No. 48244 of 2017 by the Ld. Single Judge, Allahabad High Court in favor of the Teachers similarly situated as Petitioners, filed a Special Appeal Defective No. 921 of 2018 on 07.12.2018 before the Division Bench of Allahabad High Court which was subsequently disposed of vide order dated 18.12.2018 by not granting the relief as prayed by the Respondents.
7. That the Respondent failed to adhere with the order dated 31.10.2017 passed by the Hon'ble Allahabad High Court and thereafter, a Contempt Application (Civil) No. 5275 of 2018 was filed by the Teachers similarly situated as Petitioners alleging disobedience and willful misconduct. That the said contempt petition was duly disposed of vide order dated 26.02.2019 by upholding that the charges stand proved against the DIOS, Jaunpur.
8. That the order dated 18.12.2020 and 26.2.2019 were challenged before this Hon'ble Court which disposed of the said Petition by stating that the concerned authorities should give benefit to teachers and lecturers who have so far worked adhoc, and work out a formula giving some weightage to both TGT and lecturers depending on the period of services rendered. It was further held that in the case of TGTs, such weightage will have to form a part of

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the total marks while in case of the lecturers such weightage can be given in the process of interview. The other aspect considered by this Hon'ble Court is that apart from the weightage, the period which has been verified as having been spent in teaching as adhoc, would be counted for purposes of retiral benefits of the TGTs and Lecturers". This Court further directed the Respondents to pay the arrears of salaries to all the teachers who had not been paid while working as ad-hoc teachers. The Petitioners were interveners in the above matter.

9. That Respondent acting contrary to this Court's order dated 26.08.2020 issued advertisements bearing no. 01/2021 and 02/2021 in which Clause 1(9) provided that the experience weightage given to the ad-hoc teacher shall be counted from the date of disbursal of their first salary till the filing of the online application form which was blatantly contrary to the directions passed by the Supreme Court in Civil Appeal No. 8300 of 2016. Therefore, teachers similarly situated as Petitioners were constrained to file Contempt Petition(C) No. 338/2021 and 339/2021 and Contempt Petition No.10242/2021 alleging violation of the judgment dated 26.08.2020 passed by this Hon'ble Court in Special Leave Petition (C) No. 19561- 19562 of 2019 and



connected matters as neither their salaries were paid nor due weightage was given to them as per the said judgment.

10. That the Respondent vide notice dated 24.06.2021 intimated that in light of this Hon'ble Court's order dated 26.08.2020 in Civil Appeal No. 8300 of 2016, the date of examination to be held for 12603 TGT posts as mentioned in advertisement bearing no. 01/2021 was 7th/8th August 2021 and 2595 PGT posts as in mentioned advertisement bearing no. 02/2021 was 17th/18th August, 2021.
11. This Hon'ble Court in the Contempt Petitions preferred by the other similarly situated persons vide order dated 28.06.2021 set aside Clause 1(9) of the Advertisement No. 1/21 and 2/21 to the extent that it failed to provide weightage to the candidates from the date of their appointment. That in partial compliance of the order dated 28.06.2021, the Board issued a corrigendum dated 08.07.2021 directing that while granting weightage service experience of the candidate would be counted from the date of their appointment till the date of filling in the Application form.
12. That despite amending Clause 1(9) of the Advertisements bearing no. 01/2021 and 02/2021 in terms of the order dated 28.06.2020, no opportunity was given to the Petitioners to fill the application form as per the amended Clause 1(9). That the last date for filling

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up the application forms was 20.05.2021. Since the dispute was ongoing regarding the criteria for granting weightage, the Petitioners who have never been paid any salary were unable to fill in the Application forms before the said last date of 20.05.2021. It is only when the last date of filling up the applications i.e., 20.05.2021 had expired, the Board released a corrigendum dated 8.7.2021 setting aside Clause 1(9) of the above-stated Advertisements bearing no. 01/2021 and 02/2021.

13. Therefore, despite repeated orders of this Hon'ble Court and directions issued, the benefit of the said judgments has not ensured in favour of the Petitioners as they have been left in the lurch. The Petitioners despite fulfilling all the conditions and criteria have not been able to fill in the Application forms and take the examination thereby rendering the very purpose of the judgment and orders of this Hon'ble Court nugatory. Thus, the Petitioners are left with no other option but to approach this Hon'ble Court for necessary directions so that they may be permitted to appear and sit for the examination as directed by this Hon'ble Court on 28.6.2021 and 26.8.2020.

Hence, the present Writ Petition.