2025 INSC 1273

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2025
(Arising out of SLP(C) No. 22164 of 2024)

UMA KANT AND ANOTHER ...APPELLANTS

VERSUS

STATE OF U.P. AND OTHERS ...RESPONDENTS

J U D G M E N T

B.R. GAVAI, CJI

1. Leave granted.

2. The present appeal challenges the judgment and final order dated 1st May 2024 passed by a Division Bench of the High Court of Judicature at Allahabad[1], whereby the *intra-court*[2] appeal filed by the appellants herein was *dismissed* and the judgment and order dated 12th March 2024 passed by a learned Single Judge of the High Court, dismissing the Writ Petition[3] filed by the appellants, was *affirmed*.

[1] **Hereinafter, "High Court".**
[2] **Special Appeal No. 441 of 224.**
[3] **Writ – A No. – 17951 of 2018.**

3. The facts, *in brief*, giving rise to the present appeal are as under.

3.1. By a notification dated 23rd August 2010, the National Council for Teacher Education,[4] in exercise of the powers conferred by sub-section (1) of Section 23 of the *Right of Children to Free and Compulsory Education Act, 2009*,[5] laid down minimum qualifications for a person to be eligible for appointment as a teacher in Class I to VIII in a "school" referred to in clause (n) of Section 2 of the RTE Act, with effect from the date of the notification. It can be seen that the requirement to pass the Teacher Eligibility Test,[6] to be conducted by the appropriate Government in accordance with the guidelines framed by the NCTE for the purpose, was added as a minimum qualification.

3.2. On 25th June 2011, the management of one Jwala Prasad Tiwari Junior High School, Bhauti, Kanpur Nagar, Uttar Pradesh,[7] which is a recognized and aided junior high school, initiated proceedings to fill four posts of Assistant Teachers in

---

[4] Hereinafter, "NCTE".
[5] Hereinafter, "RTE Act".
[6] Hereinafter, "TET".
[7] Hereinafter, "JPT Junior High School".

JPT Junior High School with the permission of the Basic Shiksha Adhikari, Kanpur Nagar District[8].

3.3. An advertisement for the aforesaid four posts of Assistant Teachers was issued on 3rd July 2011 and the last date for submission of applications was 16th July 2011. The appellants herein applied for the same.

3.4. On 13th November 2011, TET examination was held for the first time in the State of Uttar Pradesh and on 25th November 2011, appellant No. 2 cleared the TET.

3.5. On 13th March 2012, the BSA approved the selection of the appellants by way of an appointment letter. As a result, the appellants joined the post of Assistant Teacher on 17th March 2012.

3.6. On 24th May 2014, appellant No. 1 also cleared the TET.

3.7. By way of an amendment dated 9th August 2017 to Section 23 of the RTE Act, it was provided that every teacher, appointed or in position as on 31st March 2015, who does not possess minimum qualifications as laid down under sub-

[8] Hereinafter, "BSA".

section (1) shall acquire such minimum qualifications within a period of four years from the date of the said amendment.

3.8. On 12th July 2018, the services of the appellants were terminated by the BSA on the ground that they did not have TET qualification at the time of their appointment.

3.9. Aggrieved thereby, the appellants along with two others filed a Writ Petition before the High Court *inter-alia* seeking quashing of the aforesaid order/communication passed by the BSA.

3.10. Vide judgment and final order dated 12th March 2024, a learned Single Judge of the High Court *dismissed* the Writ Petition.

3.11. Aggrieved thereby, the writ petitioners before the High Court filed an *intra-court* appeal and the same was also dismissed by the Division Bench of the High Court *vide* impugned judgement and final order dated 1st May 2024.

3.12. Being aggrieved by the impugned judgment and final order, two of the writ petitioners before the High Court have filed the present appeal by way of special leave.

4. We have heard Shri Amit Anand Tiwari, learned Senior Counsel for the appellants and Shri Ankit Goel, learned counsel for the respondent-State.

5. It is submitted by the learned Senior Counsel on behalf of the appellants that the first TET was conducted by the respondent-State on 13th November 2011 and the appellants passed the same in 2011 and 2014. It is further submitted that since the appellants qualified TET within the extended time prescribed by the RTE Act, they should not be terminated for non-possession of TET certificate at the time of their appointment and that they should be reinstated.

6. *Per contra*, it is submitted by the learned counsel for the respondent-State that as per the mandate of the RTE Act, the appellants ought to have obtained TET certificate at the time of their appointment. It is, however, fairly stated by the learned counsel for the respondent-State that subsequent to their appointment, they obtained TET certificate by 2014.

7. Section 23 of the RTE Act provides qualifications for appointment and terms and conditions of service of teachers. In exercise of the powers thereof, the NCTE, being the concerned academic authority authorised by the Central

Government, by way of a notification dated 23rd August 2010 prescribed passing the TET as one of the minimum qualifications for a person to be eligible for appointment as a teacher in Class I to VIII in a "school" referred to in clause (n) of Section 2 of the RTE Act.

8. By an amendment dated 9th August 2017, the second *proviso* to sub-section (2) of Section 23 of the RTE Act was added and it provides that every teacher appointed or in position as on 31st March 2015, who does not possess minimum qualifications as laid down under sub-section (1) shall acquire such minimum qualifications within a period of four years from the date of commencement of the amendment.

9. In the present case, the appellants applied for the post of Assistant Teacher in the JPT Junior High School pursuant to the advertisement dated 3rd July 2011, with the last date for submission of applications being 16th July 2011. The BSA approved the selection of the appellants on 13th March 2012, with them joining the post on 17th March 2012. Further, the TET was held for the *first time* in the State of Uttar Pradesh on 13th November 2011 and appellant No. 1 cleared TET on 25th

November 2011, while appellant No. 2 cleared TET on 24th May 2014.

10. It can thus be seen that the appellants had acquired the minimum qualifications, including TET, by 24th March 2014, while the second *proviso* to sub-section (2) of Section 23 of the RTE Act provides that the unqualified teachers appointed/in-position as on 31st March 2015 shall acquire minimum qualifications before 31st March 2019. We, therefore, fail to see as to how the appellants can be said to be unqualified on the date of their termination *i.e.*, 12th July 2018, when undisputedly they had already qualified the TET by 24th March 2014.

11. Pertinently, both the learned Single Judge and the Division Bench of the High Court recorded that the appellants had qualified TET by 2014. However, they proceeded on the premise that since the appellants did not possess TET pass-certificate at the time of their appointment, so their termination, *after working for 6 years*, need not be interfered with.

12. A perusal of the order/communication dated 12th July 2018 passed by the BSA would, however, show that apart from

finding the appellants to have not qualified the TET, there is no other basis on which the appointment of the appellants was terminated. The learned counsel for respondent-State has also not stated any other ground on the basis of which the candidature of the appellants was found to be unsuitable for the post of Assistant Teacher.

13. In that view of the matter, we find that the non-interference by the learned Single Judge of the High Court and the same being affirmed by the Division Bench of the High Court is erroneous as the requirement to qualify TET was to be complied with by 31st March 2019, by when the appellants had undisputedly passed the TET.

14. We, therefore, allow the present appeal by passing the following order:

(i) The judgment and final order passed by the Division Bench of the High Court in Special Appeal No. – 441 of 2024 is quashed and set aside;

(ii) The judgment and final order passed by the Single Judge of High Court in Writ – A No. – 17951 of 2018 dated 12th March 2024 is quashed and set aside;

(iii) The order/communication recalling the selection of the appellants on the posts of Assistant Teachers dated 12th July 2018 is quashed and set aside;

(iv) The Writ Petition filed by the appellants before the High Court is *disposed of* with a direction to the respondents to *forthwith* reinstate the appellants to the post of Assistant Teacher in the Jwala Prasad Tiwari Junior High School, Bhauti, Kanpur Nagar, Uttar Pradesh. We clarify that though the appellants would not be entitled to back-wages, they shall be reinstated with continuity of service and all other consequential benefits, including seniority, etc.

15. Pending applications, *if any*, shall stand disposed of.

.....CJI
(B.R. GAVAI)

.....J
(K. VINOD CHANDRAN)

NEW DELHI;
OCTOBER 31, 2025.