

CWP-25154-2023 and
other connected matters

CNR No: PHHC011445202023

2026:PHHC:112522



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-25154-2023

1)

Mamta Devi

...Petitioner

VERSUS

State of Haryana and others

...Respondents

2)

CWP-11638-2025

Suman Devi

...Petitioner

VERSUS

State of Haryana and others

...Respondents

3)

CWP-12620-2023

Charan Singh and others

...Petitioners

VERSUS

State of Haryana and others

...Respondents

4)

CWP-16047-2023

Balwinder Singh

...Petitioner

VERSUS

CWP-25154-2023 and
other connected matters

CNR No: PHHC011445202023
2026:PHHC:112522



State of Haryana and others

...Respondents

5)

CWP-22209-2025

Poonam alias Poonam Godara

...Petitioner

VERSUS

State of Haryana and others

...Respondents

6)

CWP-25159-2023

Sushil Kumar and another

...Petitioners

VERSUS

State of Haryana and others

...Respondents

7)

CWP-25532-2023

Geeta Rani

...Petitioner

VERSUS

State of Haryana and others

...Respondents

8)

CWP-25950-2023

Umed Singh Boora

...Petitioner

VERSUS

State of Haryana and others

CWP-25154-2023 and
other connected matters

CNR No: PHHC011445202023
2026:PHHC:112522



...Respondents

9)

CWP-32445-2024

Monika Rani

...Petitioner

VERSUS

State of Haryana and another

...Respondents

10)

CWP-5635-2023

Ashok Kumar and another

...Petitioners

VERSUS

State of Haryana and others

...Respondents

Reserved on: 15.07.2026
Pronounced on:12.08.2026
Uploaded on:14.08.2026

Whether only the operative part of the judgment is pronounced? No
Whether full judgment is pronounced? Yes

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nipun Bhardwaj, Advocate for the petitioner in CWP-32445-2024.

Mr. Satish Saini, Advocate for the petitioner in CWP-25159-2023.

Mr. Nikhil Lather, Advocate for the petitioner CWP-5635-2023.

Mr. Sanchit Punia with Mr. Rohit Balyan, Advocate for the petitioner in CWP-25950-2023.



Mr. Pawan Attri, Advocate for the petitioner in CWP-25159-2023.

Mr. Jasbir Singh Mor, Advocate for the petitioner(s) in CWP-12620, 25532 & 11638-2023.

Mr. Sanjeev Kaushik, Addl. AG, Mr. Divyanshu Kaushik with Ms. Amisha Rana, Advocates for State-Haryana, assisted by Ms. Arpandeeep (Law Officer in CWP-28705-2025).

Mr. K.K. Gupta, Advocate for respondent No.2 in CWP-12620-2023.

Mr. Kanwal Goyal, Advocate for respondent-Commission in all cases.

HARPREET SINGH BRAR, J.

1. With the consent of the parties, all the aforementioned writ petitions are taken up together and disposed of by this common judgment, as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from **CWP No.25154 of 2023**.

2. The present writ petition (CWP No.25154 of 2023) has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *Certiorari* for quashing order dated 06.08.2024 (Annexure P-18) and announcement dated 07.08.2024 (Annexure P-19) vide which the validity period of State Teacher Eligibility Test (STET)/Haryana State Teacher Eligibility Test (HTET) has been extended for lifetime, but prospectively. Further, for issuance of a writ in the nature of *Certiorari* for quashing order dated 02.11.2023 (Annexure P-4) passed by respondent No.2-HPSC vide which the candidature of the petitioner has been found provisionally liable for rejection. The petitioner also seeks issuance of a writ in the nature of



Mandamus directing the respondents to treat HTET certificate dated 20.02.2014 (Annexure P-11) to be valid for life and to consider the petitioner eligible for the post of Post Graduate Teacher (Political Science) in the selection process arising from Advertisement No.32/2023 dated 24.06.2023 and not to reject the candidature of the petitioner on the ground that validity of the HTET certificate of the petitioner has expired on 29.02.2021. Lastly, a prayer is made for issuance of a direction to respondent No.2-HPSC to provisionally allow the petitioner to appear for the interview/viva voce which is scheduled for 08.11.2023.

FACTUAL BACKGROUND

3. Respondent No.2-HPSC issued Advertisement No.32/2023 dated 24.06.2023 (Annexure P-1) inviting applications for direct recruitment of 240 posts of Post Graduate Teacher (PGT) (Political Science). The prescribed essential qualifications for the said post include- M.A. in Political Science or Public Administration with at least 50% marks, B.Ed. from a recognized university, Matric with Hindi/Sanskrit or 10+2/BA/MA with Hindi as one of the subjects and certificate indicating qualification of HTET/STET as well as a consistently good academic record. Being eligible as per the said criteria, the petitioner applied for the post of PGT (Political Science).

4. The advertisement (*supra*) prescribed a three-tiered selection process that includes a Screening Test (qualifying in nature) followed by a Subject Knowledge Test (weightage of 87.5%) and Interview/Viva Voce



(weightage of 12.5%). The petitioner appeared for the Subject Knowledge Test held on 17.09.2023 and as indicated by result dated 18.10.2023 (Annexure P-3), she was provisionally invited for the Interview. Thereafter, vide letter dated 02.11.2023 (Annexure P-4), the petitioner was informed that her candidature is liable to be rejected for failure to submit marksheets pertaining to 10th and 12th standard, B.A., M.A. as well as the degrees of B.A. and M.A. She was also informed that as per Government Instructions dated 07.10.2020, the validity of HTET is 07 years and as such, since she qualified the same on 20.02.2014, the validity thereof has lapsed as on 19.02.2021. Pursuant thereto, the petitioner submitted the requisite documents and satisfied the objection, but the limited validity of the HTET certification could not be overcome in view of Government Instructions dated 07.10.2020. However, during the pendency of the present writ petition, respondent No.1, vide impugned order dated 06.08.2024 (Annexure P-18) has prospectively extended the validity of HTET for lifetime and accordingly, respondent No.2-HPSC has extended the benefits thereof to the candidates vide impugned announcement dated 07.08.2024 (Annexure P-19).

5. Learned State Counsel submitted that a reply has been filed in **CWP No.25154 of 2023** and stated that a copy thereof has been supplied to the learned counsel for the petitioners. It was further submitted that the said reply may be treated as the reply on behalf of the respondents-State in all the connected writ petitions as well.

**CONTENTIONS**

- **On behalf of the petitioner(s)**

6. Learned counsel for the petitioner has contended that the petitioner applied for appointment to the post of PGT (Political Science), in terms of advertisement (*supra*) and has qualified the Screening Test as well as the Subject Knowledge Test. However, her candidature has been provisionally rejected due to expiry of her HTET certification. It is the case of the respondents that the HTET certificate is only valid for 07 years, as provided in the Government Instructions dated 07.10.2020 (Annexure P-5). Learned counsel for the petitioner has argued that there is no rationale behind imposing such a condition i.e. limitation of validity of the HTET certificate to 07 years once the National Council for Teacher Education (hereinafter 'NCTE') has bestowed lifetime validity on the same vide notification dated 09.06.2021 (Annexure P-23). He further submitted that the power to prescribe minimum qualifications and eligibility standards for school teachers resides with the NCTE, in terms of The National Council for Teacher Education Act, 1993 (hereinafter 'NCTE Act') and The Right of Children to Free and Compulsory Education Act, 2009 (hereinafter 'RTE Act'). As such, since the NCTE, a statutory regulator created by a Parliamentary legislation, has prescribed a certain standard, the State government cannot deviate from it.

7. Learned counsel further submitted that in pursuance of Section 23(1) of the RTE Act, the NCTE issued guidelines for conducting the Teacher Eligibility Test vide notification dated 11.02.2011 (Annexure P-22) and



placed an upper limit of 07 years on the validity of the certification acquired upon clearing the same. However, vide notification dated 09.06.2021 (Annexure P-23), the validity has been extended to lifetime. Learned counsel emphasized that a perusal of the said notification (Annexure P-23) makes it clear that the said modification is applicable retrospectively. In spite of a specific stipulation to this effect, the respondent-Board has unjustly passed the impugned order dated 06.08.2024 (Annexure P-18) whereby benefit of the extended validity was only granted prospectively i.e. with respect to the advertisements issued for recruitment of teachers after issuance of this order. Since the field already stood occupied by the notification dated 09.06.2021 (Annexure P-23), which has been issued by the Central Government-authorized NCTE, the respondent-Board i.e. the State Government could not have issued contrary instructions issued vide impugned order dated 06.08.2024 (Annexure P-18). As such, the impugned order dated 06.08.2024 (Annexure P-18) is repugnant to the notification dated 09.06.2021 (Annexure P-23) to the extent of denial of retrospective application, and thus, the former is struck by Article 254 of the Constitution of India. Hence, the respondent-Board has exceeded its jurisdiction by arbitrarily creating an illegal distinction between the homogenous class of TET certificate holders, which is contrary to the dictum of the NCTE, and is violative of the settled law as well as the constitutional mandate in terms of Articles 14, 16 and 254 of the Constitution of India.

- **On behalf of the respondents**



8. *Per contra*, learned counsel for respondent-Board submitted that even before the Teacher Eligibility Test was made mandatory by the NCTE, the State of Haryana had already decided to conduct STET vide notification dated 17.04.2008 for recruitment of all categories of school teachers. Further, vide notification dated 24.07.2008 the validity clause for STET was omitted, thereby extending its validity for life. Moreover, vide notification dated 27.08.2009, the Central Government introduced the Teacher Eligibility Test with a validity of 05 years under the RTE Act. Accordingly, the State Government also fixed the validity of STET/HTET certification at 05 years vide notification dated 15.07.2011. Learned counsel argued that as per the guidelines issued by the NCTE vide notification dated 11.02.2011 (Annexure P-2), the validity of TET was extended to a maximum of 07 years; thus, causing the State to issue Government Instructions dated 07.10.2020 (Annexure P-5) whereby HTET certificates were considered to be valid for 07 years.

9. Learned counsel contended that the eligibility of the petitioner ought to be assessed as on 18.07.2023, i.e. the last date of submission of applications for the post of the petitioner PGT (Political Science) against the advertisement (*supra*). Since the validity of her HTET certificate stood expired on 19.02.2021, i.e. upon lapse of 07 years since its issuance, the petitioner was not eligible to participate in the selection process as on 18.07.2023. Learned counsel further stated that in the notification dated 09.06.2021 (Annexure P-23) issued by the NCTE, it is clearly provided that the validity period of TET qualifying certificate shall be for life, “*unless*



otherwise notified by the appropriate Government.” Therefore, since the advertisement (*supra*) pertains to recruitment of PGTs for schools in the territory of the State of Haryana, the State government, being the *appropriate Government*, issued notification dated 06.08.2024 (Annexure P-18) whereby HTET certificate was granted lifetime validity, however, only prospectively. Learned counsel argued that the NCTE itself recognizes the authority and discretion of the appropriate government to take an independent decision in this regard. Since ‘education’ falls under List III- Concurrent List of the Seventh Schedule of the Constitution of India, the State is empowered to legislate on the same and consequently, issue executive instructions. Moreover, Section 23 of the RTE merely authorizes the Central Government to appoint an academic authority to prescribe minimum qualifications for teachers, however, nothing therein prohibits the State Government from prescribing additional recruitment conditions, not inconsistent with the statutory baseline.

10. It was further contended that fixation of a cut-off date is a policy decision that falls in the exclusive domain of the executive and does not amount to discrimination. Every policy has a commencement date and the same is not rendered unconstitutional merely because some persons fall on either side of the cut-off date. Admittedly, the petitioner has various other higher qualifications such as B.Ed., M.Ed., however, they cannot substitute the mandatory qualification of HTET, as prescribed in the advertisement (*supra*). Thus, the present petition is liable to be dismissed being devoid of any merit.



11. Learned counsel also informed this Court that respondent No.2-HPSC had recommended a total of 200 candidates for appointment against 240 posts PGT (Political Science) in terms of the advertisement (*supra*) vide memo dated 07.12.2023, and the respondent-Board has issued appointment letters to 199 candidates vide memo No.6/26-2023 PGT-I (2). However, learned counsel also added that mere availability of vacancy does not create a vested right in the petitioners to be considered for appointment.

OBSERVATIONS AND ANALYSIS

12. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, the following question arises for adjudication:

(i) *Whether the respondents were justified in granting lifetime validity to Haryana Teaching Eligibility Test (HTET) certification only prospectively vide impugned orders dated 06.08.2024 (Annexure P-18), in view of notification dated 09.06.2021 (Annexure P-23) issued by the National Council for Teacher Education (NCTE)?*

(ii) *Whether the impugned order dated 06.08.2024 (Annexure P-18) passed by the respondent-Board is liable to be struck down being repugnant to notification dated 09.06.2021 (Annexure P-23) issued by the NCTE, in terms of Article 254 of the Constitution of India?*

I. The Role and Mandate of the National Council for Teacher Education (NCTE).

13. Before addressing the above-mentioned legal issues, this Court finds it appropriate to note that quality foundational education is vital for both individual growth and societal progress. As education is an enforceable



fundamental right under the Indian Constitution, the State must enforce strict academic standards to assist in cultivating conscientious and innovative citizens. Because an education system is only as good as its teachers, regulating teacher qualification standards is essential.

14. On that note, the subject of ‘Education’ finds mention in both List I- Union List and List III- Concurrent List of the Seventh Schedule of the Constitution of India. The relevant provisions thereof are reproduced below:

“List I-Union List

66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.

List III-Concurrent List

25. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.”

A conjoint reading of Entry 66, List I and Entry 25, List III makes it evident that the Parliament possesses the absolute power to coordinate and determine standards for higher education, as also observed by the Hon’ble Supreme Court in ***State of Tamil Nadu vs. Adhiyaman Educational and Research Institute (1995) 4 SCC 104.***

15. Accordingly, in exercise of the powers under Entry 66, List I, Seventh Schedule, the National Council for Teacher Education Act, 1993 (hereinafter ‘NCTE Act’) was enacted by the Parliament, resulting in creation of the NCTE. The NCTE has been entrusted with the prescription and maintenance of minimum standards for teacher education, which shall be



uniformly applicable across the nation. The relevant provisions of the NTCE Act are reproduced as below:

National Council for Teacher Education Act, 1993

“1. Short title, extent and commencement.—

(1) This Act may be called the National Council for Teacher Education Act, 1993.

*(2) **It extends to the whole of India.***

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) Save as otherwise provided in this Act, the provisions of this Act shall apply to—

(a) institutions;

(b) students and teachers of the institutions;

(c) schools imparting pre-primary, primary, upper primary, secondary or senior secondary education and colleges providing senior secondary or intermediate education irrespective of the fact, by whatever names they may be called; and

*(d) **teachers for schools and colleges referred to in clause (c).***

2. Definitions.—

In this Act, unless the context otherwise requires,—

xxx

xxx

xxx

*(ka) “**school**” means any recognised school imparting pre-primary, primary, upper primary, secondary or senior secondary education, or a college imparting senior secondary education, and includes—*

(i) a school established, owned and controlled by the Central Government, or the State Government or a local authority;

(ii) a school receiving aid or grants to meet whole or part of its expenses from the Central Government, the State Government or a local authority;

(iii) a school not receiving any aid or grants to meet whole or part of its expenses from the Central Government, the State Government or a local authority;

xxx

xxx

xxx

*(m) “**teacher education qualification**” means a degree, diploma or certificate in teacher education awarded by a University or examining body in accordance with the provisions of this Act;*

12. Functions of the Council.—



It shall be the duty of the Council to take all such steps as it may think fit for ensuring planned and co-ordinated development of teacher education and for the determination and maintenance of standards for teacher education and for the purposes of performing its functions under this Act, the Council may—

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(d) lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in recognised institutions;

xxx

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xxx

(g) lay down standards in respect of examinations leading to teacher education qualifications, criteria for admission to such examinations and schemes of courses or training;

xxx

xxx

xxx

12A. Power of Council to determine minimum standards of education of school teachers.—

*For the purpose of maintaining standards of education in schools, **the Council may, by regulations, determine the qualifications of persons for being recruited as teachers in any pre-primary, primary, upper primary, secondary, senior secondary or intermediate school or college, by whatever name called, established, run, aided or recognised by the Central Government or a State Government or a local or other authority:***

Provided that nothing in this section shall adversely affect the continuance of any person recruited in any pre-primary, primary, upper primary, secondary, senior secondary or intermediate schools or colleges, under any rule, regulation or order made by the Central Government, a State Government, a local or other authority, immediately before the commencement of the National Council for Teacher Education(Amendment)Act, 2011 (18 of 2011) solely on the ground of non-fulfilment of such qualifications as may be specified by the Council:

Provided further that the minimum qualifications of a teacher referred to in the first proviso shall be acquired within the period specified in this Act or under the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009).”

(emphasis added)



15.1. Subsequently, under Entry 25 of List III, Seventh Schedule, the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter ‘RTE Act’) was also enacted by the Parliament with a view to provide free education to all children aged 06 to 14 years. The RTE Act also contains a specific stipulation regarding prescription of minimum standards for teachers by the ‘academic authority.’ The relevant provisions thereof are reproduced below:

Right of Children to Free and Compulsory Education Act, 2009

“2. Definitions.—

In this Act, unless the context otherwise requires,—

(a) “**appropriate Government**” means—

(i) *in relation to a school established, owned or controlled by the Central Government, or the administrator of the Union territory, having no legislature, the Central Government;*

(ii) *in relation to a school, other than the school referred to in sub-clause (i), established within the territory of—*

(A) *a State, the State Government;*

(B) *a Union territory having legislature, the Government of that Union territory;*

ka) “**school**” *means any recognised school imparting pre-primary, primary, upper primary, secondary or senior secondary education, or a college imparting senior secondary education, and includes—*

(i) *a school established, owned and controlled by the Central Government, or the State Government or a local authority;*

(ii) *a school receiving aid or grants to meet whole or part of its expenses from the Central Government, the State Government or a local authority;*



(iii) a school not receiving any aid or grants to meet whole or part of its expenses from the Central Government, the State Government or a local authority;

23. Qualifications for appointment and terms and conditions of service of teachers.—

(1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher.

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(emphasis added)

15.2. Vide notification bearing no. S.O.750(E) dated 31.03.2010, published in the Gazette of India, the NCTE was designated as the ‘*academic authority*’ in terms of Section 23(1) of the RTE Act. The said notification reads as follows:

“NOTIFICATION

New Delhi, the 31st March, 2010

*S.O. 750(E).-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, **the Central Government hereby authorises the National Council for Teacher Education as the academic authority to lay down the minimum qualifications for a person to be eligible for appointment as a teacher.**”*

(emphasis added)

16. A perusal of the aforementioned provisions makes it clear that the Parliament intended for the NCTE to be the prime statutory authority for prescription of minimum standards for teacher education across the nation. Further, in exercise of its powers under Section 23(1) of the RTE Act, the NCTE issued guidelines dated 11.02.2011 (Annexure P-22) with respect to



the Teacher Eligibility Test (TET). Notably, since these guidelines (Annexure P-22) have been created under a parliamentary enactment, they bear a statutory character and thus, are binding, in terms of the NCTE Act and the RTE Act. Para 11 of the said guidelines (Annexure P-22) categorically mentions that the validity period of the TET certification would be determined by the *appropriate Government*, while placing an upper limit of 07 years thereon. The same is reproduced as below:

“Frequency of conduct of TET and validity period of TET certificate

*11. The appropriate Government should conduct a TET at least once every year. **The Validity Period of TET qualifying certificate for appointment will be decided by the appropriate Government subject to a maximum of seven years for all categories.** But there will be no restriction on the number of attempts a person can take for acquiring a TET Certificate. A person who has qualified TET may also appear again for improving his/her score.”*

(emphasis added)

17. Subsequently, vide notification dated 09.06.2021 (Annexure P-23), the NCTE amended Para 11 of the guidelines dated 11.02.2011 (Annexure P-22) to extend the validity of the TET certification to lifetime, subject to issuance of any notification by the *appropriate Government* stating otherwise. Additionally, the NCTE made an explicit stipulation under Clause 3, granting retrospective application to the amended Para 11, w.e.f. 11.02.2011 i.e. the date of issuance of the original guidelines (Annexure P-22). The notification dated 09.06.2021 (Annexure P-23) reads as follows:

“Subject- Extension of validity period of Teacher Eligibility Test (TET) Certificate-regarding.



Madam/Sir.

*In accordance with the decision of the National Council for Teacher Education in its 50th General Body Meeting and the approval of the MoE vide letter No. 21-3/2021-IS.1 dated 7th June, 2021, **the second sentence of para 11** of the Guidelines for conducting Teacher Eligibility Test (TET), issued by NCTE vide letter no. 76-4/2010/NCTE/Acad. dated 11/02/2011 which is “The Validity Period of TET qualifying certificate for appointment will be decided by the appropriate Government subject to a maximum of seven years for all categories.” shall be **substituted** by, “**The Validity Period of TET qualifying certificate for appointment, unless otherwise notified by the appropriate Government, would remain valid for life.**”*

2. *The other sentences of para 11 remain the same.*

3. ***Since this provision will have retrospective effect from the date of enforcement of TET Guidelines i.e. 11.02.2011, the concerned Body/State Govt./UT is to take necessary action to revalidate/issue fresh TET certificate to those candidates whose period of 7 (seven) years has elapsed.***

(emphasis added)

II. Contradictory Executive Instructions dated 06.08.2024 (Annexure P-18) issued by the State Government.

18. After lapse of about 03 years since issuance of notification dated 09.06.2021 (Annexure P-23) by the NCTE, the respondent-Board i.e. the State Government issued the impugned order dated 06.08.2024 (Annexure P-18) also extending validity of STET/HTET certification for lifetime. However, while the notification dated 09.06.2021 (Annexure P-23) specifically made lifetime validity of TET certification applicable *retrospectively* w.e.f. 11.02.2011 i.e. when the guidelines (Annexure P-22) were originally implemented, the respondent-Board chose to disregard the same and granted



said lifetime validity to STET/HTET certification *prospectively* w.e.f. 06.08.2024 i.e. date of issuance of impugned order (Annexure P-18). The said order is reproduced below:

***“Haryana Government
School Education Department, Chandigarh
The 06th August, 2024
ORDER*”**

No.15/6-2017 Co.(1)- The State Government has decided to extend the validity period of certificates pertaining to passing of State Teacher Eligibility Test/Haryana Test Eligibility Test for life time.

***Further, it is also decided that the State Teacher Eligibility Test/Haryana Test Eligibility Test certificates expired on the date of this notification will be treated as valid for the advertisements issued for recruitments of teachers after issuance of this notification.*”**

(emphasis added)

19. It appears that the respondent-Board, vide impugned order dated 06.08.2024 (Annexure P-18), has created a unique situation where the same HTET certificate that is considered *invalid* for advertisements for recruitment issued prior to 06.08.2024, becomes *valid* for selection processes initiated after the said date. It is the case of the respondents that the notification dated 09.06.2021 (Annexure P-23) itself provides discretion to the State Government with respect to implementation of the amendment regarding lifetime validity. Learned counsel for the respondents have relied on the phrase- “*unless otherwise notified by the appropriate Government,*” as mentioned in notification dated 09.06.2021 (Annexure P-23), to buttress this claim. However, this Court finds this argument to be misconceived.



20. A study of the notification dated 09.06.2021 (Annexure P-23) makes it rather conspicuous that the discretion bestowed on the State Government, being an *appropriate Government*, merely pertains to deciding upon the duration of validity of the TET certification. The phrase quoted by learned counsel for the respondents, in its entirety, reads as follows- “*The Validity Period of TET qualifying certificate for appointment, unless otherwise notified by the appropriate Government, would remain valid for a lifetime.*” Thus, it is clear as day that the discretion claimed by the respondents was always limited to altering the length of the validity period. In other words, the State Government did in fact possess the discretion to extend the validity of the TET certification, if it so chose, for as long as it preferred or for a shorter period, by passing an appropriate notification.

21. Nevertheless, nothing contained in notification dated 09.06.2021 (Annexure P-23) indicates that the State Government had the power to decide upon the retrospective application of the amendment made to Para 11 of the guidelines dated 11.02.2011 (Annexure P-22) as well. Rather, a distinct stipulation has been made by means of Clause 3 of the notification dated 09.06.2021 (Annexure P-23), which categorically indicates that the amendment was ordained to have a retrospective effect from the date of enforcement of TET guidelines (Annexure P-22) i.e. 11.02.2011. Additionally, the said clause also makes it incumbent upon the concerned authorities, including the State Government, to revalidate or issue fresh TET certificates to the candidates whose certification has lapsed, based on the 07-year criterion. Furthermore, the phrase- “*unless otherwise notified by the*



appropriate Government,” does not find mention in Clause 3, further enunciating that retrospective application was not subject to discretion of the State Government.

III. Constitutional Limitations on Executive Action of the State.

22. It would be profitable to peruse the following constitutional provisions before delving further into the matter at hand:

“Article 162. Extent of executive power of State.

Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws:

Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof.

Article 254. Inconsistency between laws made by Parliament and laws made by the Legislatures of States.

(1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved



for the consideration of the President and has received his assent, prevail in that State:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

Article 256. Obligation of States and the Union.

The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

Article 257. Control of the Union over States in certain cases.

(1) The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.”

23. As previously discussed, the NCTE is the creation of a parliamentary enactment, and has been further empowered to prescribe minimum standards for teacher education under the RTE Act, another Central legislation. Notably, the NCTE Act was passed under Entry 66, List I- Union List while the RTE Act was passed under Entry 25, List III- Concurrent List, in terms of the Seventh Schedule of the Constitution of India. It must be pointed out that the law enacted by the Parliament retains superiority in either case. In other words, the State does not possess the power to legislate on the subjects mentioned in List I- Union List, while the Parliament-made law supersedes the State-made law with respect to the subjects listed in List III- Concurrent List, in terms of Article 254 of the Constitution of India.



24. Notably, the guidelines dated 11.02.2011 (Annexure P-22) have been issued by the NCTE in exercise of power rooted in a parliament-made statute, thereby granting them the force of law. However, vide order dated 06.08.2024 (Annexure P-18) issued by the respondent-Board, the State Government has contradicted the stipulation made by the NCTE regarding retrospective application of the lifetime validity amendment. Learned counsel for the petitioner(s) have argued that the impugned order dated 06.08.2024 (Annexure P-18) is hit by Article 254 of the Constitution, being repugnant to the notification dated 09.06.2021 (Annexure P-23) as law made by the Parliament prevails supreme, as far as subjects mentioned in List I and List III are concerned.

25. In the present factual context, this Court is of the considered opinion that the argument of repugnancy raised by learned counsel for the petitioner(s) is liable to be rejected. The language of Article 254 of the Constitution of India makes it clear that the doctrine of repugnancy only arises when there is a conflict between a *law* made by the Parliament and a *law* made by the State Legislature. Further, a *stricto sensu* construction of the term '*law*' is called for, which limits its ambit to an Act, Ordinance or subordinate legislation traceable to an Act. At this stage, it may also be profitable to refer to the judgment rendered by the Constitution Bench of the Hon'ble Supreme Court in ***M. Karunanidhi vs. Union of India, 1979 AIR SC 898***, wherein the application of the doctrine of repugnancy in terms of Article 254 of the Constitution of India, has been discussed in depth. Speaking through Justice Fazl Ali, the following was concluded:



*“8. It would be seen that so far as clause (1) of Article 254 is concerned it clearly lays down that where there is a direct collision between a provision of a law made by the State and that made by Parliament with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the State law would be void to the extent of the repugnancy. This naturally means that where both the State and Parliament occupy the field contemplated by the Concurrent List then the Act passed by Parliament being prior in point of time will prevail and consequently the State Act will have to yield to the Central Act. In fact, the scheme of the Constitution is a scientific and equitable distribution of legislative powers between Parliament and the State Legislatures. First, regarding the matters contained in List I, i.e. the Union List to the Seventh Schedule, Parliament alone is empowered to legislate and the State Legislatures have no authority to make any law in respect of the Entries contained in List I, Secondly, so far as the Concurrent List is concerned, both Parliament and the State Legislatures are entitled to legislate in regard to any of the Entries appearing therein, but that is subject to the condition laid down by Article 254 (1) discussed above. Thirdly, so far as the matters in List II, i.e. the State List are concerned, the State Legislatures alone are competent to legislate on them and only under certain conditions Parliament can do so. It is, therefore, obvious that in such matters **repugnancy may result from the following circumstances:-***

1. Where the provisions of a Central Act and a State Act in the Concurrent List are fully inconsistent and are absolutely irreconcilable, the Central Act will prevail and the State Act will become void in view of the repugnancy.

2. Where however, a law passed by the State comes into collision with a law passed by Parliament on an Entry in the Concurrent List, the State Act shall prevail to the extent of the repugnancy and the provisions of the Central Act would become void provided the State Act has been passed in accordance with clause (2) of Article 254.

3. Where a law passed by the State Legislature while being substantially within the scope of the entries in the State List entrenches upon any of the Entries in the Central List the constitutionality of the law may be upheld by invoking the doctrine of pith and substance if on an analysis of the provisions of the Act it appears that by and large the law falls within the



four corners of the State List and entrenchment, if any, is purely incidental or inconsequential.

4. Where, however, a law made by the state Legislature on a subject covered by the Concurrent List is inconsistent with and repugnant to a previous law made by Parliament, then such a law can be protected by obtaining the assent of the President under Article 254 (2) of the Constitution. The result of obtaining the assent of the president would be that so far as the State Act is concerned, it will prevail in the State and overrule the provisions of the Central Act in their applicability to the State only. Such a state of affairs will exist only until Parliament may at any time make a law adding to, or amending, varying or repealing the law made by the State Legislature under the proviso to Article 254.”

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35. On a careful consideration, therefore, of the authorities referred to above, the following propositions emerge:-

1. That in order to decide the question of repugnancy it must be shown that the two enactments contain inconsistent and irreconcilable provisions, so that they cannot stand together or operate in the same field.

2. That there can be no repeal by implication unless the inconsistency appears on the face of the two statutes.

3. That where the two statutes occupy a particular field, but there is room or possibility of both the statutes operating in the same field without coming into collision with each other, no repugnancy results.

4. That where there is no inconsistency but a statute occupying the same field seeks to create distinct and separate offences, no question of repugnancy arises and both the statutes continue to operate in the same field.”

(emphasis added)

26. As such, the doctrine of repugnancy can only be applied when the inconsistency arises between two legislations, created by the Parliament



and the State Legislature, respectively, on a subject mentioned in List III-Concurrent List, Seventh Schedule. However, in the matter at hand, the impugned order dated 06.08.2024 (Annexure P-18) issued by the State Government i.e. respondent-Board, is in the nature of executive instructions. Thus, Article 254 of the Constitution of India is not attracted as the present case fails to fulfil the precursor condition of the conflict being between two enactments.

27. Be that as it may, Article 162 of the Constitution of India also makes it clear that the executive power of the State is co-extensive with the extent of its legislative power. Simply put, the State may only issue executive instructions in fields on which the State Legislature is competent to legislate. Considering that the impugned order dated 06.08.2024 (Annexure P-18) is in the nature of an executive instruction, it ought to be tested on the anvil of Article 162 of the Constitution of India. The coordination and regulation of higher education falls under Entry 66 of List I, giving the Parliament exclusive domain over it. On the other hand, the subject of education finds mention in Entry 25 of List III, though it has been subjected to provisions of Entries 63 to 66 of List I.

28.1. At this stage, it would be profitable to reiterate that the NCTE is the creation of the Parliament, and is entrusted with the responsibility to regulate teacher education standards by two Central enactments- the NCTE Act (enacted under Entry 66, List I) and the RTE Act (enacted under Entry 25, List III). In exercise of its powers under the said statutes, the NCTE issued



the guidelines dated 11.02.2011 (Annexure P-22), as such, they fall under the ambit of *Parliament-made law*. Therefore, it can also be reasonably concluded that the field of regulation of teacher education stands occupied by Central legislations under both List I and List III, thereby placing an embargo on the State Legislature to legislate on the same in a manner that is contradictory to the Central statute.

28.2. Article 162 of the Constitution of India clearly stipulates that the executive power of the State Government can only be exercised on subjects upon which the State Legislature has the authority to legislate. This further begs the inference that what cannot be done in exercise of legislative power of the State, is also forbidden to be undertaken in exercise of its executive power. Applying this principle to the present case, since the NCTE, a statutory body empowered by Parliamentary enactments, has already prescribed TET guidelines (Annexure P-22), subsequently amended by notification dated 09.06.2021 (Annexure P-23), the State Government is forbidden to contradict the same by issuing executive instructions by means of impugned order dated 06.08.2024 (Annexure P-18). Simply put, when the statutory norms prescribed in pursuance of parliamentary legislations already apply, the State Government does not possess the power to contradict them by legislative action or executive action.

29. Moreover, while dealing with contradictory stances taken by means of a Central and a State legislation, a two-Judge bench of the Hon'ble



Supreme Court in *Adhiyaman Educational and Research Institute (supra)*, speaking through Justice P.B. Sawant, opined as follows:

“43. What emerges from the above discussion is as follows:

[i] The expression "coordination" used in Entry 66 of the Union List of the Seventh Schedule to the Constitution does not merely mean evaluation. It means harmonisation with a view to forge a uniform pattern for a concerted action according to a certain design, scheme or plan of development. It, therefore, includes action not only for removal of disparities in standards but also for preventing the occurrence of such disparities. It would, therefore, also include power to do all things which are necessary to prevent what would make "coordination" either impossible or difficult. This power is absolute and unconditional and in the absence of any valid compelling reasons, it must be given its full effect according to its plain and express intention.

[ii] To the extent that the State legislation is in conflict with the Central legislation though the former is purported to have been made under Entry 25 of the Concurrent List but in effect encroaches upon legislation including subordinate legislation made by the Centre under Entry 25 of the Concurrent List or to give effect to Entry 66 of the Union List, it would be void and inoperative.

[iii] If there is a conflict between the two legislations, unless the State legislation is saved by the provisions of the main part of clause [2] of Article 254, the State legislation being repugnant to the Central legislation, the same would be inoperative.

[iv] Whether the State law encroaches upon Entry 66 of the Union List or is repugnant to the law made by the Centre under Entry 25 of the Concurrent List, will have to be determined by the examination of the two laws and will depend upon the facts of each case.

[v] When there are more applicants than the available situations/seats, the State authority is not prevented from laying down higher standards or qualifications than those laid down by the Centre or the Central authority to short-list the applicants. When the State authority does so, it does not encroach upon Entry 66 of the Union List or make a law which is repugnant to the Central law.



[vil However, when the situations/seats are available and the State authorities deny an applicant the same on the ground that the applicant is not qualified according to its standards or qualifications, as the case may be, although the applicant satisfies the standards or qualifications laid down by the Central law, they act unconstitutionally. So also when the State authorities derecognise or disaffiliate an institution for not satisfying the standards or requirement laid down by them, although it satisfied the norms and requirements laid down by the central authority, the State authorities act illegally.]”

(emphasis added)

29.1. Furthermore, a two-Judge bench of the Hon’ble Supreme Court in ***State of U.P. and others vs. Shiv Kumar Pathak and others, 2017 AIR SC 3612***, has conclusively held that the notifications issued by the NCTE, being the academic authority in terms of the RTE Act as well as under Sections 12 and 12A of the NCTE Act, are binding in nature and the State is duty-bound to act in alignment with the same. Speaking through Justice Adarsh Kumar Goel, the following was opined:

“16. There is no manner of doubt that the NCTE, acting as an 'academic authority' under Section 23 of the RTE Act, under the Notification dated 31st March, 2010 issued by the Central Government as well as under Sections 12 and 12A of the NCTE Act, was competent to issue Notifications dated 23rd August, 2010 and 11th February, 2011. The State Government was under obligation to act as per the said notifications and not to give effect to any contrary rule. However, since NCTE itself has taken the stand that notification dated 11th February, 2011 with regard to the weightage to be given to the marks obtained in TET is not mandatory which is also a possible interpretation, the view of the High Court in quashing the 15th Amendment to the 1981 Rules has to be interfered with. Accordingly, while we uphold the view that qualifications prescribed by the NCTE are binding, requirement of weightage to TET marks is not a mandatory requirement.”

(emphasis added)



29.2. A two-Judge bench of the Hon'ble Supreme Court in ***Maa Vaishno Devi Mahila Mahavidyalaya vs. State of U.P. and others (2013) 2 SCC 617*** further enunciated that NCTE is the supreme authority regarding prescription of teacher education norms. Speaking through Justice Swatanter Kumar, the following was held:

“39. This is the scheme of grant and/or refusal of the recognition to an institution dealing with various courses of teacher training programme.

*40. Under the scheme of the NCTE Act, there are three principal bodies involved in processing the applications for grant or refusal of recognition for running of teacher training courses by various institutions. They are the NCTE, the State Government, the affiliating body or the University, as the case may be. Each of these stakeholders has been assigned a definite role under the provisions of the NCTE Act and even the stage at which such role is required to be performed. The provisions of the NCTE Act even identify the scope and extent of power which each of these bodies is expected to exercise. As already noticed, **the NCTE Act has been enacted with the object of constituting a National Council with a view to achieve planned and coordinated development of teacher education system throughout the country and also to ensure maintenance of proper norms and standards in teacher education system. The NCTE is a specialised body and is expected to perform varied functions including grant of recognition, ensuring maintenance of proper norms and standards in relation to teacher education, inspection of the colleges through experts and to ensure strict adherence to the time schedule specified under the NCTE Act and rules and regulations framed therein.***

*41. **The NCTE Act is a special act enacted to cover a particular field, i.e. teacher training education and, thus, has to receive precedence over other laws in relation to that field.** No institution or body is empowered to grant recognition to any institution under the NCTE Act or any other law for the time being in force, except the NCTE itself. Grant of recognition by the Council is a condition precedent to grant of affiliation by the examining body to an institute.*



48. The NCTE Act has been enacted by the Parliament with reference to Entry 66 of List I of Schedule VII of the Constitution. There is no such specific power vested in the State Legislature under List II of the Seventh Schedule. Entry 25 of List III of the Seventh Schedule is the other Entry that provides the field for legislation both to the State and the Centre, in relation to education, including technical education, medical education and Universities; vocational and technical training and labour. The field is primarily covered by the Union List and thus, the State can exercise any legislative power under Entry 25, List III but such law cannot be repugnant to the Central law. Wherever the State law is irreconcilable with the Central law, the State Law must give way in favour of the Central law to the extent of repugnance. This will show the supremacy of the Central law in relation to professional education, including the teacher training programmes...

(emphasis added)

29.3. A two-Judge bench of the Hon'ble Supreme Court in ***State of Uttar Pradesh vs. Anand Kumar Yadav, (2018) 13 SCC 560***, has held TET to be mandatory in terms of the qualifications laid down by the NCTE under Section 23(1) of the RTE Act, and the same cannot be diluted by the State. Speaking through Justice Adarsh Kumar Goel, the following was observed:

“Questions before the Court :

14. Thus, questions which need to be gone into are:

- i) Whether under the scheme of appointment of Shiksha Mitras, they could be treated as teachers appointed as per applicable qualifications?*
- ii) If Shiksha Mitras were not duly appointed teachers, could they be regularised as teachers?*
- iii) Whether qualification laid down under Section 23(1) of the RTE Act was applicable or stood relaxed in the case of Shiksha Mitras?*



iv) *Whether statutory qualifications in a Central Statute on a concurrent list subject could be relaxed by a State legislative/administrative action?*

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Our consideration and reasons:

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18. *In the impugned judgment the Full Bench of the High Court highlighted the importance of the prescribed TET qualification as follows:*

*"93. The object and purpose of introducing the TET is to ensure that a teacher who embarks upon instructing students of primary and upper primary classes is duly equipped to fulfil the needs of the students, understands the relevance of education for a child at that stage and can contribute to the well rounded development of the child. Teaching a child is not merely a matter of providing information. Deeply embedded in the process of imparting education is sensitivity towards the psyche of the child, the ability to understand the concerns of a young student of that age, the motivations which encourage learning and the pitfalls which have to be avoided. **The emphasis on clearing the TET is to ensure the maintenance of quality in imparting primary education. These requirements which have been laid down by NCTE fulfil an important public purpose by ensuring a complement of trained teachers who contribute to the learning process of children and enhance their growth and development. These requirements should not be viewed merely as norms governing the relationship of a teacher with the contract of employment.** These norms are intended to fulfil and protect the needs of those who are taught, namely, young children. India can ignore the concerns of its children only at the cost of a grave peril to the future of our society. The effort of the State Government to by-pass well considered norms which are laid down by NCTE must be disapproved by the Court. We have done so on the ground that the State Government lacks the legislative power and competence to do so. Equally, fundamental is the concern that a relaxation of the norms prescribed by an expert body will result in grave detriment to the development and growth of our young children and the provision of quality*



education to them. Providing quality education is crucial for students belonging to every strata of society. Education which is provided in schools conducted by the Basic Education Board should not be allowed to degenerate into education of poor quality which it will, if the norms which are prescribed by an expert body under legislation enacted by Parliament in the national interest are allowed to be ignored by the State Government on the basis of parochial or populist perceptions. Such an attempt is ultra vires the statutory powers of the State and is arbitrary and violative of Article 14 of the Constitution."

19. We are in agreement with the above observations. **We are unable to agree that even unqualified teachers ought to be allowed to continue ignoring the legislative mandate or that we should exercise our jurisdiction under Article 142 to undo the said mandate.** Consideration for career of 1.78 lac Shiksha Mitras, over and above their legal right, cannot be at the cost of fundamental right of children to free quality education by duly qualified teachers in terms of legislative mandate.

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21. We are in agreement with the above findings. **In view of clear mandate of law statutorily requiring minimum qualification for appointment of teachers to be appointed after the date of Notification dated 23rd August, 2010, there is no doubt that no appointment was permissible without such qualifications.** Appointments in the present case are clearly after the said date. Relaxation provision could be invoked for a limited period or in respect of persons already appointed in terms of applicable rules relating to qualifications. The Shiksha Mitras in the present case do not fall in the category of pre 23rd August, 2010 Notification whose appointment could be regularized.

22. Further difficulty which stares one in the face is the law laid down by this Court on regularization of contractually appointed persons in public employment. Appointment of Shiksha Mitras was not only contractual, it was not as per qualification prescribed for a teacher nor on designation of teacher nor in pay scale of teachers. Thus, they could not be regularized as teachers. Regularization could only be of mere irregularity. The exceptions carved out by this Court do not apply to the case of the present nature.



23. In view of our conclusion that the Shiksha Mitras were never appointed as teachers as per applicable qualifications and are not covered by relaxation order under Section 23(2) of the RTE Act, they could not be appointed as teachers in breach of Section 23(1) of the said Act. The State is not competent to relax the qualifications.”

(emphasis added)

29.4. A three-Judge bench of the Hon’ble Supreme Court in ***State of Maharashtra vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya, (2006) 9 SCC 1***, has held that the field of teacher education is occupied by the NCTE Act and the same cannot be encroached upon by the State vide a legislation or an executive instruction. Speaking through Justice C.K. Thakker, the following was held:

*“45. It is thus clear that the Central Government has considered the subject of Secondary Education and Higher Education at the national level. **The Act of 1993 also requires Parliament to consider Teacher Education System 'throughout the country'.** NCTE, therefore, in our opinion, is expected to deal with applications for establishing new B.Ed. colleges or allowing increase in intake capacity, keeping in view 1993 Act and planned and co-ordinated development of teacher-education system in the country. **It is neither open to the State Government nor to a University to consider the local conditions or apply 'State policy' to refuse such permission. In fact, as held by this Court in cases referred to hereinabove, State Government has no power to reject the prayer of an institution or to overrule the decision of NCTE.** The action of the State Government, therefore, was contrary to law and has rightly been set aside by the High Court.*

*46. The decision relied on by Mr. T.R. Andhyarujina in ***Vidharbha Sikshan Vyawasthapak Mahasangh v. State of Maharashtra & Others, (1986)4 SCC 361***, has no application to the facts of the case. In that case, the power was with the State Government to grant or refuse permission to open B.Ed. college. Considering the fact that if permission would be granted, there would be a large scale unemployment, it was decided by the State Government not to allow new D.Ed. colleges to be opened. It was held by this Court that such*



policy decision could not be said to be arbitrary or otherwise unreasonable. The Court in that case was not concerned with the power or authority of State Government vis-a-vis Central Government and Act of Parliament. **In the present case, as the field was fully occupied by Entry 66 of List I of Schedule 7 to the Constitution and Parliament has enacted 1993 Act, it was not open to the State Legislature to exercise power by making an enactment. Such enactment, as per decisions of this Court, would be void and inoperative. It would be unthinkable that if State Legislature could not have encroached upon a field occupied by Parliament, it could still exercise power by executive fiat by refusing permission under the 'policy consideration'.** The contention of the State Government, therefore, has to be negated. We may state at this stage that the contesting respondents have placed heavy reliance on Section 12 of the Act which relates to functions of the Council and submitted that it is incumbent on the Council to lay down norms and guidelines for ensuring planned and co-ordinated development of the teacher education and it is not open to the Council to delegate those 'essential functions' to the State Government. According to them, such delegation would be excessive and impermissible and abdication of power by the Council in favour of the State Government which is inconsistent with the provisions of the parent Act and must be held ultra vires. In reply, Mr. Andhyarujuna submitted that the constitutional validity of the Regulations or Guidelines had not been challenged before the High Court and the respondents now cannot be permitted to raise such point in this Court in the absence of the challenge. The respondents, however, urged that since they succeeded before the High Court on other points, it was not necessary for them to challenge the vires of Regulations. But when the State had approached this Court, they can support the judgment on any ground available to them including unconstitutionality of Regulations and Guidelines. In our opinion, it is not necessary to enter into larger question since we are satisfied that in the facts and circumstances of the case, the High Court was justified in allowing the petitions filed by the colleges and setting aside the order dated December 28, 2004 passed by the State Government and also in dismissing the petition filed by the State holding that the order of the State was not legal. We may, however, observe that the learned counsel for NCTE, Mr. Raju Ramachandran is right in submitting that the Guidelines permitted the State Government to collect necessary data and materials and make them available to NCTE so as to enable NCTE to take an appropriate decision. **In accordance with the provisions of 1993 Act, final decision**



can be taken only by NCTE and once a decision is taken by NCTE, it has to be implemented by all authorities in the light of the provisions of the Act and the law declared by this Court. *It has been so held in St. John Teachers training Institute.”*

(emphasis added)

IV. Arbitrary Nature of Impugned Order dated 06.08.2024 (Annexure P-18).

30. Importantly, the guidelines dated 11.02.2011 (Annexure P-18) are anchored in the RTE Act, making them operational across States even without their specific adoption. As such, the notification dated 09.06.2021 (Annexure P-23) whereby the validity of TET certification was extended to lifetime, was applicable to the State of Haryana as well, especially in absence of any order passed to the contrary. *In arguendo*, even if the order dated 06.08.2024 (Annexure P-18) is considered legally valid, it can still be reasonably concluded that the HTET certificates, that had expired upon lapse of 07 years, already stood revalidated in view of the notification dated 09.06.2021 (Annexure P-23). Thus, vide impugned order dated 06.08.2024 (Annexure P-18), the respondent-Board has withdrawn the notional benefit already granted to the petitioner and similarly situated candidates. The respondent-Board has failed to satisfy this Court of the reason to judge the eligibility of a candidate for availing the benefit of lifetime validity of HTET certification in context of the specific date of 06.08.2024. Additionally, the irrational notion of variable validity of HTET certification cannot be accepted by this Court being arbitrary and thoroughly unreasonable.



31. Further, in passing the impugned order dated 06.08.2024 (Annexure P-18), the respondent-Board has engaged in discrimination between the homogenous class of HTET certificate holders that are otherwise covered by the notification issued by the NCTE. As mentioned above, no intelligible differentia i.e. a clear criterion for grouping certain people together, and a rational nexus to the object it seeks to achieve, has been put forth by the respondents to render this artificial classification constitutionally valid. In absence thereof, such classification breaches of the promise of equality enshrined in Article 14 of the Constitution of India. Reference in this regard can also be made to the judgment rendered by a three-Judge Bench in ***State of Punjab and others vs. The Senior Vocational Staff Masters Association and others 2017(4) SCT 119***, wherein speaking through Justice R.K. Agrawal, the following was opined:

“14) It is a cardinal principle of law that government has to abide by rule of law and uphold the values and principles of the Constitution. Respondents herein alleged that creating an artificial distinction between the persons in the same cadre would amount to violation of Article 14 i.e. equality before law and hence, such an act cannot be sustained. The doctrine of equality is a dynamic and evolving concept having many dimensions. Articles 14-18 of the Constitution, besides assuring equality before the law and equal protection of the laws, also disallow discrimination which lacks the object of achieving equality, in matters of employment. It is well settled that though Article 14 forbids class legislation but it does not forbid reasonable classification. When any rule of statutory provision providing classification is assailed on the ground that it is contrary to Article 14, its validity can be sustained if it satisfies two tests, namely, that the classification was to be based on an intelligible differentia which distinguishes persons or things grouped together from the others left out of the group, and the differentia in question must have a reasonable nexus to object



sought to be achieved by the rule or statutory provision in question. *In other words, there must be some rational nexus between the basis of classification and the object intended to be achieved by the Statute or the Rule.”*

(emphasis added)

32. Moreover, Article 16 of the Constitution of India provides for equality of opportunity for all citizens in matters of public employment, thereby becoming an expression of the right to equality guaranteed by Article 14. On that note, if a State-employer irrationally limits the zone of consideration, such action ought to be considered arbitrary in nature and in violation of both Articles 14 and 16 of the Constitution. Reliance in this regard can be placed on the judgment rendered by a Constitution Bench of this Court in ***E.P. Royappa vs. State of Tamil Nadu and another*** 1974 AIR SC 555 wherein, speaking through Justice P.N. Bhagwati, the following was opined:

*“82. The last two grounds of challenge may be taken up together for consideration. Though we have formulated the third ground of challenge as a distinct and separate ground, it is really in substance and effect merely an aspect of the second ground based on violation of Articles 14 and 16. Article 16 embodies the fundamental guarantee that Article 14 as there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. Though enacted as a distinct and independent fundamental right because of its great importance as a principle ensuring equality of opportunity in public employment which is so vital to the building up of the new classless egalitarian society envisaged in the Constitution, Article 16 is only an instance of the application of the concept of equality enshrined in Article 14. In other words, **Article 14 is the genus while Article 16 is aspects. Article 16 gives effect to the doctrine of equality in all matters relating to public employment. The basic principle which, therefore, informs both Articles 14 and 16 is equality and inhibition against discrimination.** Now, what is the content and*



*reach of this great equalising principle ? It is a founding faith, to use the words of Bose J., "a way of life", and it must not be subjected to a narrow pedantic or lexicographic approach. We cannot countenance any attempt to truncate its all-embracing scope and meaning, for to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be "cribbed cabined and confined" within traditional and doctrinaire limits. **From a positivistic point of view, equality is antithetic to arbitrariness. In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14, and if it affects any matter relating to public employment, it is also violative of Article 16. Articles 14 and 16 strike at arbitrariness in State action and ensure fairness and equality of treatment.** They require that **State action must be based on valid relevant principles applicable alike to all similarly situate and it must not be guided by any extraneous or irrelevant considerations because that would be denial of equality.** Where the operative reason for State action, as distinguished from motive inducing from the antechamber of the mind, is not legitimate and relevant but is extraneous and outside the area of permissible considerations, it would amount to mala fide exercise of power and that is hit by Articles 14 and 16. Mala fide exercise of power and arbitrariness are different lethal radiations emanating from the same vice in fact the matter comprehends the former. Both are inhibited by Articles 14 and 16."*

(emphasis added)

33. The misconceived instructions issued by the respondent-Board vide order dated 06.08.2024 (Annexure P-18) has caused considerable undeserved distress to the petitioner and similarly situated candidates. The candidature of the petitioner, with respect to the advertisement (*supra*) issued in the year 2023, was provisionally rejected vide order dated 02.11.2023 (Annexure P-4), on the ground that her TET certification had lapsed in the



year 2021, upon expiry of the 07-year validity period. As per the discussion above, such a conclusion is unjustified in law.

34. The notification dated 09.06.2021 (Annexure P-23) bestowed lifetime validity on the TET certificate w.e.f. 11.02.2011, subject to any notification issued by the State Government, stating otherwise. Since the State/respondent-Board only issued a notification in this regard on 06.08.2024, at the time of issuance of the advertisement (*supra*) i.e. 24.06.2023, the HTET certificate of the petitioner stood notionally renewed. Further, the respondent-Board exceeded its jurisdiction by denying retrospective application to extension of validity of HTET certificates, especially when the governing authority for teacher education i.e. NCTE specifically mandated it vide notification dated 09.06.2021 (Annexure P-23). The discretion vested in the State Government was limited to deciding upon the duration of the validity of the TET certification; and not with respect to the scope of application of such concession. Additionally, it is unfathomable as to how the HTET certificate of the petitioner is considered to be expired for the purpose of advertisement dated 24.06.2023 while the same shall stand resuscitated for recruitment processes initiated after the specific date of 06.08.2024 i.e. the date of issuance of impugned order (Annexure P-18) by the respondent-Board.



CONCLUSION

35. In view of the discussion above, the questions of law framed above are answered in the following manner:

- i. *The respondents erred in giving prospective effect, w.e.f. 06.08.2024, to the lifetime validity of HTET certificates vide impugned order (Annexure P-18). Such decision of the respondent-Board directly conflicts with the notification dated 09.06.2021 (Annexure P-23) issued by the NCTE, which explicitly mandates retrospective application w.e.f. 11.02.2011, the date of enforcement of the TET Guidelines (Annexure P-22).*
- ii. *Article 254 of the Constitution of India does not find application in the present case as the doctrine of repugnancy applies when the matter pertains to contradictory laws passed by the Central and State Legislatures, respectively. However, the executive instructions issued by the State Government i.e. respondent-Board vide impugned order dated 06.08.2024 (Annexure P-18) denying retrospective applicability to lifetime validity of TET certification in contravention of notification dated 09.06.2024 (Annexure P-23) issued by the NCTE, is liable to be set aside to this extent in view of Article 162 of the Constitution of India.*

36. Accordingly, all the aforementioned petitions are allowed in the following terms:

- (i) The order dated 06.08.2024 (Annexure P-18) issued by the respondent-Board and announcement dated 07.08.2024 (Annexure P-19) issued by respondent-HPSC are set aside to the extent of limiting



application of lifetime validity of the State Teacher Eligibility Test (STET)/Haryana State Teacher Eligibility Test (HTET) to advertisements issued after 06.08.2024.

(ii) The order dated 02.11.2023 (Annexure P-4) passed by respondent-HPSC vide which the candidature of the petitioner has been found provisionally liable for rejection, is hereby quashed and set aside.

(iii) The respondents/concerned authorities are directed to assess the validity of HTET certification of the petitioners and other similarly situated candidates strictly in terms of notification dated 09.06.2021 (Annexure P-23) issued by the NCTE.

(iv) Since certain petitioners had appeared for the interview pursuant to interim orders passed by this Court, they would be at liberty to move a representation before the respondents/concerned authorities requesting them to consider their candidature for appointment. The respondents/concerned authorities are directed to consider them for appointment, if otherwise found eligible, and pass a speaking order in this regard within 04 weeks of receipt of such representations.

(v) In the event of appointment of any of the petitioners, it is clarified that they shall be entitled to pay only from the date of joining service. However, the notional service benefits shall be calculated from the date of joining of their batchmates, strictly in terms of their respective standing in the merit list.

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

38. A photocopy of this order be placed on the case files of the connected matters.

(HARPREET SINGH BRAR)
JUDGE

12.08.2026

Puneet Chawla

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No