

Vinay Kumar And Others ...Petitioners vs State Of Uttarakhand And Others on 18 May, 2026

Author: Rakesh Thapliyal

Bench: Rakesh Thapliyal

IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL

Writ Petition (SS) No. 2292 of 2018
Vinay Kumar and Others ...Petitioners

Vs.

State of Uttarakhand and Others ...Respondents

With

Writ Petition (SS) No. 172 of 2019
Laxman Singh Samant and Another ...Petitioners

Vs.

State of Uttarakhand and Others ...Respondents

Presence:

1. Mr. V.B.S. Negi, learned senior counsel assisted by Ms. Azmeen Wason, learned counsel for the petitioners.
2. Mr. Rajeev Singh Bisht, learned Deputy Advocate General with Mr. Pradeep Hairiya, learned Standing Counsel for the State.
3. Mr. Shashank Upadhyaya, learned counsel for respondent no. 5 through V.C.
4. Mr. Yogesh Pacholia, learned counsel for NCTE.

Hon'ble Rakesh Thapliyal, J. (Oral)

1. The petitioners moved an application under Article 215 of the Constitution of India for the purposes of initiating the proceeding under the Contempt of Courts Act against the official respondent for non-compliance of the order passed by this court on 16.12.2025. After the order passed on 16.12.2025 several opportunities were given to the officials respondents to justify their stand why they offered appointment who are not eligible but in all subsequent affidavits they reiterate the same stand, which infact was turned down by the Division Bench while remanding the matter to this court. Not only this, even on the previous occasion this court also take serious note of the office memorandum issued by the then Director dated 16.02.2026 offering appointment to the 19 candidates who were not eligible and after taking note of the aforesaid office memorandum it has been apprised to this court that all those appointments have been cancelled. The matter was heard at length on several dates but the Secretary and the Director repeatedly misleading to the court, which is evident from the fact that they have not apprised about the office memorandum dated

16.02.2026 and in such eventuality the then Director, who passed the aforesaid office memorandum at the verge of his retirement was called upon and directed to file his personal affidavit. Not only this by the previous order the respondents were directed to give the details of all those officials who are responsible to offer appointment to those who are private respondents herein but uptill date neither the Secretary nor the Director give the list of those officials. The Division Bench remand this matter by the detailed judgment on 29.05.2018 and official respondents are repeatedly taking the same stand, which infact was turned down by the Division Bench.

2. On the previous date in order to assist not only the Secretary even the Chief Secretary was also asked to address on certain relevant points which infact goes to the root of the matter because this court is of the view that all the private respondents were not eligible at all but surprisingly their stand are the same. Even the Secretary joined the proceeding through V.C. and make unsuccessful attempt to convince the court.

3. This court is of the view that either they have not gone through with the judgment passed by the Division Bench or have not gone through with the Rules. Why this court compelled to take cognizance on the application moved under Article 215 of the Constitution at this juncture reference of all the previous orders are necessary to be discussed.

4. On 03.12.2024, the compliance affidavit filed by the Secretary was dealt with and after dealing with the same this court observed that the Secretary avoided to give the response to the query as raised in the previous order. The relevant extract of this order are as under:

"On the previous date a specific response was asked from the Secretary of the department to explain why the candidates, who were not having TET qualification though B.Ed. upto 31.03.2016 were given appointment particularly when the eligible candidates having B.Ed. with TET were available. A compliance affidavit has been filed by the Secretary, but in the compliance affidavit there is no answer to the query as raised by this court in the previous order dated 19.11.2024. What he has stated in the compliance affidavit it is necessary to reproduce the same:

"6. That in the state of Uttarakhand, due to the unavailability of candidates trained in the two-year D.El.Ed. program for the appointment of teachers for classes 1 to 5, the National Council for Teacher Education (NCTE), at the request of the State Government, issued Notification No. 208 dated 17.10.2012. This notification extended the deadline for the appointment of candidates with B.Ed. qualifications and TET-1 certification from 01.01.2012 to 31.03.2014. Subsequently, at the State Government's request, the NCTE issued Notification No. 809 dated 12.08.2014, further extending the deadline for appointing B.Ed. and TET-I certified candidates to vacant posts of Assistant Teachers (Primary) from 31.03.2014 to 31.03.2016. Based on this, recruitment processes were conducted through state-level selection in 2014 and 2016, in which candidates holding B.Ed. qualifications and CTET-I certification were selected."

2. Learned senior counsel Mr. V.B.S. Negi assisted by Mr. Subhash Upadhyaya vehemently argued that in view of the finding and the observation as recorded by the Division Bench in its judgment dated 29.05.2018 passed in bunch of special appeals, the leading one is, Special Appeal No. 307 of 2016 the B.Ed. CTET not at all are eligible for appointment to the post of Assistant Teacher in Primary School. Paragraph 35 and 36 of the said judgment are being reproduced as under:

"35. The appellants would, undoubtedly, point out that this paragraph would emphasize that it is for the State Government to conduct the State Eligibility Test and that if at all the B.Ed. degree holders were to be rendered eligible for appearing in the TET conducted by the State Government. This relaxation does not extend to the eligibility test, which was being conducted by the Central Government and which awarded the certificate called as CTET. We may also see Annexure 6, which is a Notification issued by NCTE again under Section 23(2) dated 12.08.2014. Therein, paragraph 3 is similarly worded as paragraph 3, which we have extracted for the earlier years of Notification issued under Section 23(2) of the 2009 Act. Therefore, it could undoubtedly be said that, read along with the terms and conditions issued by CBSE, wherein B.Ed. degree holders are conspicuous by their absence as eligible persons, the party respondents, who had obtained CTET after 2011 were, indeed, not eligible to sit for the test. We may in this regard also refer to paragraph 19 10 of the guidelines referred to by the learned Additional Advocate General. It prima facie appears to us that the scheme of the guidelines is that CTET is to be conducted by the Central Government and which will apply to the schools referred to in sub-clause (i) of Clause (a) of Section 2 of 2009 Act. Section 2(a)(i) reads as follows:

"2(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;"

36. Clause 10(b) refers to TET conducted by the State Government or a Union Territory. It is to apply to the schools of the State Government/Union Territory with legislature and local authority referred to in sub-clause (i) of Clause (n) of Section 2 of the 2009 Act. Section 2(n)(i) of the 2009 Act reads as follows: "2(n) "school" means any recognised school imparting elementary education and includes - (i) a school established, owned or controlled by the appropriate Government or a local authority;"

3. On perusal of the observation as recorded by the Division Bench it clearly reveals that the CTET qualification is nothing but a test, which is equivalent to TET conducted by Central Government; and as per the notification dated 12.08.2014 it is clear that the candidates having B.Ed. with TET conducted by State of Uttarakhand are admittedly only to be eligible for appointment to the post of Assistant Teacher in Primary Institution.

4. Learned senior counsel Mr. A.S. Rawat argued that as per the Rules of 2012 the CTET qualified candidates are also eligible to be appointed and the advertisement

was issued strictly as per the Rules of 2012. He submits that neither the Rules of 2012 nor the conditions of eligibility as stipulated in the advertisement were challenged at any point of time.

5. In response to this, learned senior counsel Mr. V.B.S. Negi submits that even on perusal of Rules of 2012 it is very clear that only the TET qualified candidates are eligible for appointment. Not only this, he submits that the 2012 were further amended in the year 2016, which clearly provides that only the TET qualified candidates are eligible.

6. Learned Additional C.S.C. also bring to the notice of this court the statement given by the Secretary in its affidavit dated 30.11.2024, wherein, in paragraph-7(d) it is mentioned that in the State of Uttarakhand UTET-1 and CTET-1 are considered to be equivalent; however, no such notification is placed on record.

7. In response to this, Mr. Subhash Upadhyaya submits that the contentions as advanced by the learned senior counsel Mr. A.S. Rawat were noted in paragraph-12 of the judgment and subsequently, it was discussed and ultimate observation and finding has been drawn by the Division Bench that the CTET qualified candidates are not eligible to be appointed as an Assistant Teacher in the Primary School.

8. In response to this, learned senior counsel Mr. A.S. Rawat submits that the arguments advanced by the learned counsel Mr. Subhash Upadhyaya are misconceived in view of the observation as recorded by the Division Bench in paragraph-13 of the aforesaid judgment.

9. I peruse the affidavit filed by the Secretary but from perusal of the same it appears that the Secretary avoided the response to the query as raised in the previous order.

10. Let the Secretary file an additional affidavit within a period of three days to give the response to the query as raised by this court in the previous order. In addition to this, the Secretary will place before this court the notification with regard to the equivalence of TET-1 with CTET-1."

5. Such an observation was drawn after gone through with the judgment passed by the Division Bench particularly paragraph-35, however, this court take a lenient view and give further opportunity to the Secretary to file an additional affidavit. Subsequent thereto in compliance of order dated 03.12.2024 the Secretary filed additional affidavit but when this court gone through with the same this court has observed that there was no response to the query as raised by this court. At that time the Secretary given an impression that the CTET is equivalent to TET, surprisingly there is no such notification or rules with regard to such equivalence. Consequently, on 12.12.2024 this court again observed that the additional affidavit filed by the Secretary is not satisfactory and the Secretary and the Director were directed to join the proceeding through V.C. on 18.12.2024. Then, Secretary and Director joined the proceeding on 18.12.2024 and submits that

CTET trained certificate are also eligible to be appointed in term of Uttarakhand State (Primary Teacher) Service Rules, 2000. He also pointed out that the judgment of the Division Bench is prospective one and the selection in question are prior to the judgment passed by the Division Bench and, therefore, the same have no bearing with the subject matter of the present petition.

6. In response to this, Mr. V.B.S. Negi, learned senior counsel, pointed out that the submissions as advanced by the Secretary is completely misleading one since the selection pursuant to the advertisement dated 17.02.2016 was the subject matter before the Division Bench. This court further gives an opportunity to file additional affidavit particularly in reference to the observation as recorded by the Division Bench in paragraph 31 to 37. Thereafter, on 02.01.2025 this court take a liberal view taking into consideration that the private respondents herein who were offered appointments are large in numbers working since 2018, the respondents were given an opportunity to examine, if the vacancies are available the candidature of the petitioner be also considered against those vacancies. This order was passed keeping in view of the fact that there is no dispute on the eligibility of the petitioners and admittedly they are eligible as per Rules. The arguments, which was advanced by Mr. V.B.S. Negi, on the previous date was that instead of offering the appointment to the petitioners who are eligible they offered the appointments who were not eligible but since those private respondents were working since 2018 this court take such a liberal view so that private respondent may not be ousted from job.

7. On 08.01.2025 certain questions were put on Director and to file an affidavit and the first question was why certain clauses were added in the advertisement despite NCTE notification dated 12.08.2014 since by that time the NCTE also filed their affidavit. So after gone through with the affidavit of the NCTE this question was asked from the Director and at this juncture the relevant extract of the order passed on 08.01.2025 are also being extracted herein as under:

"1. Respondent-Director is granted 24 hours time to explain why despite the notification issued by the NCTE dated 12.08.2014, in the advertisement issued on 17.02.2016, the following clause has been added:-

PmRrjk[k.M ljdkj vFkok dsUnz ljdkj }kjk d{kk&1 ls 5 ds f"k{kdksa gsrq vk;ksfr v/;kid ik=rk ijh{kk ¼Vh-bZ-Vh-½ mRrh.kZAß The Director shall also explain why the aforesaid clause was added in the advertisement which is contrary to the original Rules, i.e, Uttarakhand Government Elementary education (Teacher) Service Rules 2012 notified on 28.08.2012. Though, following extract, as provided under the said Rule, should be mentioned in the advertisement which is being extracted herein as under:-

2 jk"V^{ah}; v/;kid f'k{kk ifj'kn }kjk fu:fir ekxZn'khZ fl)kUrksa ds v/khu jkT;

ljdkj@dssUnz ljdkj }kjk vk;ksfr v/;kid ik=rk ijh{kk¼Vh-bZVh-½ mRrh.kZA "

7. The Director shall further explain if the NCTE itself in their counter affidavit stated that a person having B.Ed. degree and qualified Uttarakhand State TET examination

may be appointed as Teacher only up to 31.03.2016, not thereafter, why the candidates having CTET certificate were given appointment.

8. The Director shall further explain the stand as taken by the NCTE before the Division Bench which is recorded in para 22 of the judgment passed by the Division Bench on 29.05.2018. Para 22 of the judgment dated 29.05.2018 is being reproduced herein as under:-

"Mr. Yogesh Pacholia, learned counsel appearing for NCTE would submit that the purpose of grant of CTET is to be understood from the terms of Clause 10 of the guidelines and it is meant, essentially, for the Central Government Schools, whereas TET imparted by State is meant for State Government schools. He would submit that the Notifications, which have been issued under Section 23(2) of the 2009 Act, are essentially meant for facilitating persons obtaining TET from the State authority."

9. The Director shall also explain why the advertisement has been issued in complete violation of the NCTE Notification dated 12.08.2014. The relevant extract of the NCTE Notification dated 12.08.2014 is also being reproduced herein as under:-

"Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 23 of the RTE Act, the Central Government hereby extends the relaxation to the State Government of Uttarakhand, in respect of the minimum qualification notified by the National Council for Teacher Education (hereinafter in this notification referred to as the NCTE) under sub-section (1) of 3 Section 23 of the RTE Act in so far as they relate to classes I to V and allows persons referred to in sub-clause (a) of clause (i) of paragraph 3 of the notification number F. No. 61- 03/20/2010/NCTE /(N&S) dated 23rd August 2010 published in Gazette of India, Extraordinary, Part III, Section 4 dated 25th August , 2010 (hereinafter referred to as the said notification) as amended from time to time, eligible for appointment as teacher for classes I to V beyond the 31st March 2014, subject to fulfilment of the conditions specified under the said sub-clause.

2. The relaxation granted under this notification shall be valid for a period upto the 31st March, 2016, subject to fulfilment of the following conditions, namely:- (i) the State Government of Uttarakhand shall conduct the Teacher Eligibility Test as specified in the said notification of the NCTE as amended from time to time, in accordance with the guidelines for conducting Teacher Eligibility Test, dated the 11th February 2011 issued by the NCTE and those persons who pass the Teacher Eligibility Test be considered for appointment as a teacher in classes I to VIII. (ii) the State Government and other school management shall amend the requirement rules relating to appointment of teachers so as to provide for the minimum qualifications required for appointment of teachers laid down under the said notification.

3. The persons referred to in sub-clause(a) of clause (i) of paragraph 3 of the said notification, shall also be eligible for appearing in the Teacher Eligibility Test conducted by the State Government in respect of teacher appointments to be made in the State up to 31st March 2016, in accordance with sub-paragraph (iii) of paragraph 5 of the guidelines for conducting Teacher Eligibility Test under the RTE Act issued by the NCTE vide its letter dated 11th February 2011.

10. The Director shall also explain why the advertisement dated 17.02.2016 was issued in complete violation of the Uttarakhand Government Elementary Education (Teacher)(Amended) Service Rules 2016 as notified on 16.01.2018. The relevant amendment, as carried out by this notification, is also being reproduced herein as below:-

jk"V^{ah}; v/;kid f"k{k ifj'kn dh vf/klwpuk fnukad 23-08-2010@25-08-2010 ,oa la"kksf/kr vf/klwpuk fnukad 29-07-2011@02-08-2011 ds iSjk&3 ds [k.M&1 ds mi[k.M&d esa mfYyf[kr U;wure vgZrk/kkj ¼cho,MoVhobZoVho ¼I-VmRrh.kZ½ vH;FkhZ ekuo lalk/ku fodkl ea=ky; Hkkjr ljdkj ¼Ldwy f"k{k vkSj lk{kjrk foHkkx½ dh vf/klwpuk la[;k&1809 fnukad 11-09-2014@12-08-2014 }kjk fu/kkZfjr fofFk 31-03- 2016 rd lgk;d v/;kid jktdh; izkFkfed fo|ky ds inksa ij fu;qfDr gsrq ik= gksaxsA"

8. On 17.02.2025 the State was directed to give the details of all those officials during whose tenure the appointments were given to the private respondents. This order has yet not been complied with by the respondents. The details of those officials were asked to be furnished because this court was of the view that offering the appointment to the private respondents are completely dehors the Rules and let any enquiry be initiated against erring officials.

9. On 19.02.2025 the matter was again heard, wherein, this court observed that prima-facie it appears that the advertisement itself was completely in violation of the statutory Rules and not only this it is also contrary to the NCTE notification dated 08.07.2014 as such the entire selection is bad in law since the same is contrary to the statutory Rules and the NCTE notification. After making such an observation this court asked the Chief Secretary to address on the issue involved.

10. On 27.03.2025 the Addl. C.S.C. submits that in compliance to the order dated 19.02.2025 a decision has been taken by the Committee headed by the Chief Secretary of the State that the CTET is equivalent to TET. On 30.04.2025 the Chief Secretary joined the proceeding through V.C., however, he has not gone through with the judgment passed by the Division Bench so that matter was posted on 02.06.2025. On 24.09.2025 this court give further opportunity to the State to give the details of those officials who were give task of recruitment.

On 11.09.2025 Mr. V.B.S. Negi pointed out certain provisions of the RTE Act particularly section 2A and 2(N)(I), which defines appropriate Government and Schools and this argument was advanced by Mr. Negi in order to establish that infact

the CTET trained holders are eligible to be appointed in the institution run by the Central Government and not in the institution run by the State Government. He also pointed out about the guidelines issued by the Central Government dated 11.02.2011 which was also dealt with and now relevant extract of the order dated 11.11.2025 are also being extracted herein as under:

"2. An advertisement was issued for appointment of the Assistant Teacher in primary institutions run by the State Government. The eligibility has been prescribed under 2012 Rules which was time to time amended in 2014 and lastly in 2016, and after last amendment of 2 2016, the advertisement was issued on 17.02.2016. Mr. V.B.S. Negi, learned senior counsel argued that 2016 amendment is based upon the NCTE Notification of 2010 followed by the subsequent notification of 2014 whereby relaxation was given to those candidates who were having B.Ed degree to qualify TET examination. He submits that as per 2014 Rules only TET trained are eligible to be appointed as Assistant Teacher in primary institution run by the State Government. He submits that so far as CTET qualified students are concerned, they are not eligible to be appointed as Assistant Teacher run by the State Government rather they are eligible to be appointed in the primary institutions run by the Central Government. In support of his argument, he refers Section 2 and 2(n) of the RTE Act which reads as under:-

"2(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;"

Section 2(n)(i) of the 2009 Act reads as follows: "2(n) "school" means any recognised school imparting elementary education and includes - (i) a school established, owned or controlled by the appropriate Government or a local authority;"

3. By referring the aforesaid definition clause, Mr. Negi submits that from the definition clause it is very clear that the appropriate government, in respect of the institution run by the Central Government is the Central Government and for the institution run by the State Government the appropriate Government is the State Government. He submits that the advertisement was issued in respect of the institutions run by the State Government, therefore, only TET trained candidates are eligible to be appointed and not CTET trained candidates.

4. N.C.T.E. also filed counter affidavit wherein it is stated that in respect of the institutions for which the advertisement has been issued, only TET trained candidates are eligible.

5. In furtherance of his arguments, Mr. V.B.S. Negi submits that the notification of the N.C.T.E. dated 23.08.2010, also referred guidelines issued by the Central Government on 11.02.2011 which is at page 615 of the paper book and clause 10 of

guidelines is relevant which read as under:-

No. 76-4/2010/NCTE/

dated 11.02.2011

To,

All Secretaries/Commissioners of Education of State Governments/UTs

Subject: Guidelines for conducting Teacher Eligibility Test (TET) under the Right of Children to Free and Compulsory Education Act (RTE) 2009 Sir/Madam, In accordance with the provisions of sub-section (1) of Section 23 of the RTE Act, the National Council for Teacher Education (NCTE) had vide Notification dated 23rd August, 2010 laid down the minimum qualifications for a person to be eligible for appointment as a teacher in classes I to VIII. It had been inter alia provided that one of the essential qualifications for a person to be eligible for appointment as a teacher in any of the schools referred to in clause (n) of Section 2 of the RTE Act is that he/she should pass the Teacher Eligibility Test (TET) which will be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE.

In this regard, please find enclosed the Guidelines for conducting the Teacher Eligibility Test (TET) for necessary actions at your end.

This may be brought to the knowledge of all concerned.

Clause 10. (a) TET conducted by the Central Government shall apply to all schools referred in sub-clause (i) of clause (a) of Section 2 of the RTE Act.

(b) TET conducted by a State Government/UT with legislature shall apply to:

(i) a school of the State Government/ UT with legislature and local authority referred to in subclause (i) of clause (n) of Section 2 of the RTE Act; and (ii) a school referred to in sub-clause

(ii) of clause (n) of Section 2 of the RTE Act in that State/UT. A school at (i) and (ii) may also consider eligibility of a candidate who has obtained TET Certificate awarded by another State/UT with legislature. In case a State Government/UT with legislature decides not to conduct a TET, a school at (i) and (ii) in that State/UT would consider the TET conducted by the Central Government. (c) A school referred to in sub-clause (iv) of clause

(n) of section 2 of the RTE Act may exercise the option of considering either the TET conducted by the Central Government or the TET conducted by the State Government/UT with legislature

6. In response to the argument of Mr. Negi, Mr. Rawat, who appears for the private respondent brings to the notice of this Court the notice issued by the CBSE which is enclosed at page 106 wherein there is reference of the instructions issued by the Ministry of Human Resource Development, Govt. of India wherein it is provided that CTET shall apply to the schools of the Central Government i.e. KVS, NVS, Tibetan Schools etc. and schools under the administrative control of UT of Chandigarh and Andaman & Nicobar Islands and the schools owned and managed by the State government/ local bodies and aided schools shall consider the TET conducted by the State Government. However, the State Government can also consider the CTET if it decides not to conduct the State TET.

By giving reference of this notice, Mr. Rawat argued that taking into consideration the instructions issued by the Ministry in 2012 Rules it is provided that TET trained candidates which will be conducted by the State/ Central Government, as per the Guideline issued by NCTE are also eligible. By referring 2012 Rules Mr. Rawat argued that the candidates who qualified CTET examination conducted by the Central Government are also eligible in terms of 2012 Rules.

7. In response to the arguments of the Mr. Rawat, Mr. Negi submits that after 2014 Notification issued by the NCTE, a further amendment was carried out in 2012 Rules and only those candidates who were having B.Ed. upto 31.03.2016 and having TET certificate are eligible. Mr. Negi submits that in view of the notification of the NCTE dated 12.08.2014, and as per the amendment of Rules of 2016 only B.Ed. trained who qualified TET examination conducted by the State are eligible to be appointed in the Institutions run by the State Government. Mr. Negi also submits that all these aspects have been dealt by the Division Bench of this Court in its judgment which is reflected from para 31 onwards to para 37 which are being reproduced herein as under:

31. The problem arises, however, with the undoubted requirement in law that, be it a person who is having the minimum qualification or a person having B.Ed., he should also possess TET conducted by the appropriate Government in accordance with the guidelines issued by NCTE. The respondents are all persons, except those which we have made reference to earlier, who have obtained CTET. CTET is nothing but TET, which is conducted by the Central Government. The controversy is whether all the respondents, who have passed CTET also, therefore, under the statutory rules, read with the Advertisement, they would, on the surface, appear to be persons, who are fully eligible and qualified to be appointed. But the nice controversy that is sought to be projected by the appellants, who, it may be noted, have been worsted in the selection on the basis of the criteria, which has been employed (which is that whether persons with B.Ed. would be evaluated on the basis of the year of obtaining the B.Ed.), is that, since the party respondents have obtained CTET after 2011 and as per the conditions set out by CBSE, they were not eligible even to participate in CTET. Therefore, their having obtained CTET is of no avail. In fact, it is impressed upon us by the learned counsel for the appellants that it has been mentioned in Clause 17 as follows:

"17. It is to be noted that if a candidate has been allowed to appear in the Central Teacher Eligibility Test it does not imply that the candidate's eligibility has been verified. It does not vest any right with the candidate for appointment. The eligibility shall be finally verified, by the concerned recruiting agency/appointing authority. The candidate should satisfy his/her eligibility before applying and shall be personally responsible in case he/she is not eligible to apply as per the given eligibility criteria."

32. Appellants would also remind us that the applications were given online and there was obviously no mechanism for CBSE to weed-out candidates, who were not eligible, and, hence, it is that the declaration contained in Clause 17 7 assumes significance. It is also reflected in the mark list. Therefore, it was the bounden duty of the State Government to crosscheck this aspect and weed-out those, who were not really eligible to participate in the test and it is here that the element of fraud is also emphasized before us.

33. We may also notice, for the sake of clarity, that, after Notification dated 23.08.2010 was issued, as in terms thereof, apparently, guidelines 17 were necessary, guidelines came to be issued on 11.02.2011. Clause 5 of the same is extracted as under:

"5. The following persons shall be eligible for appearing in the TET:

i. A person who has acquired the academic and professional qualifications specified in the NCTE Notification dated 23rd August 2010.

ii. A person who is pursuing any of the teacher education courses (recognized by the NCTE or the RCI, as the case may be) specified in the NCTE Notification dated 23rd August 2010. iii. The eligibility condition for appearing in TET may be relaxed in respect of a State/UT which has been granted relaxation under sub-section (2) of section 23 of the RTE Act. The relaxation will be specified in the Notification issued by the Central Government under that sub-section."

34. It could, indeed, be said that, as far as Clause 5(i) is concerned, in terms of Clause 3(a) of Notification dated 23.08.2010, a person with B.Ed. was rendered eligible as he would fall within Clause 5(i) as a person, who has acquired the academic and professional qualification under Notification dated 23.08.2010. But, in terms of the said Notification, it could also be said that this right came to an end on 01.01.2012. The question would arise as to what is to be the interpretation to be placed on Clause 5(iii). Clause 5(iii) provides that the eligibility condition for appearing in TET may be relaxed in relation to the State / Union Territory, which has been granted relaxation under subsection (2) of Section 23 of the 2009 Act. But the guidelines provide that the relaxation is to be specified in the Notification issued under subsection (2) of Section 23. There can be no doubt that, in respect of the 8 State of Uttarakhand, relaxation has been granted under Section 23(2) of the 2009 Act. That is to say, in view of shortage of persons with requisite minimum qualification and heeding to the request from the State of Uttarakhand, persons with B.Ed. degree were rendered eligible from time to time and, finally, culminating with the Notification for the year 2014, by which the period was extended till 31.03.2016. In a search for the relaxation, which is contemplated under

Clause 5(iii), we did locate, in 18 Annexure-5 in the Appeal, Notification dated 17.10.2012. It does refer to sub-clause (a) of Clause (i) of paragraph 3 of Notification dated 23.08.2010 and, obviously, refers to B.Ed. qualification and that the Government decided to give a relaxation to the State of Uttarakhand and allowed persons mentioned in sub-clause (a) of Clause (i) of paragraph 3. This means that persons with B.Ed. degree, who are the persons who are mentioned in paragraph 3, were rendered to be eligible. It was given subject to a condition in paragraph 2, namely, that the State Government shall conduct TET as specified in the said Notification, as amended from time to time, in accordance with the guidelines for conducting TET. The actual relaxation is seen granted in paragraph 3. It reads as follows:

"3. The persons referred to in sub-clause (i) of paragraph 3 of the said notification as amended from time to time, shall be eligible for appearing in the Teacher Eligibility Test conducted by the State Government in respect of teacher appointments made in the State up to 31st March, 2014, in accordance with sub-paragraph (iii) of paragraph 5 of the guidelines for conducting Teacher Eligibility Test under the said Act issued by the Council vide its letter dated the 11th February, 2011."

35. The appellants would, undoubtedly, point out that this paragraph would emphasize that it is for the State Government to conduct the State Eligibility Test and that if at all the B.Ed. degree holders were to be rendered eligible for appearing in the TET conducted by the State Government. This relaxation does not extend to the eligibility test, which was being conducted by the Central Government and which awarded the certificate called as CTET. We may also see Annexure 6, which 9 is a Notification issued by NCTE again under Section 23(2) dated 12.08.2014. Therein, paragraph 3 is similarly worded as paragraph 3, which we have extracted for the earlier years of Notification issued under Section 23(2) of the 2009 Act. Therefore, it could undoubtedly be said that, read along with the terms and conditions issued by CBSE, wherein B.Ed. degree holders are conspicuous by their absence as eligible persons, the party respondents, who had obtained CTET after 2011 were, indeed, not eligible to sit for the test. We may in this regard also refer to paragraph 19 10 of the guidelines referred to by the learned Additional Advocate General. It prima facie appears to us that the scheme of the guidelines is that CTET is to be conducted by the Central Government and which will apply to the schools referred to in sub-clause (i) of Clause (a) of Section 2 of 2009 Act. Section 2(a)(i) reads as follows:

"2(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;"

36. Clause 10(b) refers to TET conducted by the State Government or a Union Territory. It is to apply to the schools of the State Government/Union Territory with legislature and local authority referred to in sub-clause (i) of Clause (n) of Section 2 of the 2009 Act.

Section 2(n)(i) of the 2009 Act reads as follows: "2(n) "school" means any recognised school imparting elementary education and includes -

(i) a school established, owned or controlled by the appropriate Government or a local authority;"

37. Sub-clause (ii) of Clause 10(b) refers to a school referred to in sub clause (ii) of Clause (n) of Section 2 of the 2009 Act. It is important to notice that, thereafter, it is mentioned that the school at sub-clauses (i) & (ii) may also consider the eligibility of a candidate who has obtained TET certificate from another State / Union Territory with legislature. It is further provided that, in case, the State Government/Union Territory with legislature decides not to conduct TET, a school in sub- 10 clauses (i) & (ii), which would cover the schools with which we are concerned, namely, State Government Schools, would consider TET conducted by the Central Government. We had noted already that CTET is nothing but TET conducted by the Central Government. Here, Mr. Subhash Upadhyaya would point out that there is no scope for considering CTET granted for the reason that it is not a case, where the State of Uttarakhand was not conducting TET and it may be another matter that the number of tests, 20 which were conducted, were inadequate to accommodate all applicants; but, that would not be sufficient to invoke this Clause"

11. On 14.11.2025 Mr. V.B.S. Negi also advanced his argument by raising one more additional issue in order to demonstrate that the private respondents are not at all eligible to be appointed and not only this even they were not eligible to participate in the CTET examination after 2011 and in support of such submission he gives reference to certain clause of the NCTE notification dated 23.08.2010 as well as certain provisions of the Central Teacher Eligibility Teachers Examination Rules, 2011.

Mr. Shashank Upadhyaya, who appears for the CBSE, also supports the submissions of Mr. Negi. Even the counsel for NCTE also take the same stand, which is reflected from the order itself.

After gone through with the submissions as advanced by Mr. V.B.S. Negi, learned counsel for CBSE and the NCTE two issues were framed on that day, which are as follows:

Whether B.Ed. qualified candidates were eligible to appear in the CTET examination after 2011.

Whether the recruitment agencies are available at the time of offering appointment to the private respondents and whether they verify their credentials and if not what further steps has been taken.

12. At this juncture the relevant extract of the order dated 14.11.2025 is also being reproduced herein as under:

"1. Today in furtherance of previous arguments, Mr. Negi, learned Senior Counsel for the petitioners raised one more vital issue which, in fact, goes to the root of the matter. He submits that all the private respondents who have been given

appointment in the Primary Institutions obtained CTET certificate after 2011, though, after 2011 no relaxation was granted to B.Ed. qualified candidate to appear in the CTET examination. In reference to this, Mr. Negi learned counsel bring to the notice of this Court the Notification of the NCTE dated 23.08.2010. Clause (1) of this Notification relates to the minimum qualification and clause (3) pertains to training, which are being reproduced herein as under:-

1. Minimum Qualification:

(i) (a) Senior Secondary or its equivalent with at least 50% marks and 2 year Diploma in Elementary education by whatever name known Senior Secondary or its equivalent with at least 45% marks and 2 year Diploma in Elementary education by Senior Secondary or its equivalent with at least 50% marks and 2 year Diploma in education special education And

b) Pass in the Teacher Eligibility Test TET to be conducted by the appropriate Government in accordance with the guidelines framed by the NCTE for the purpose

3. Training to be undergone-A person

(a) with BA/B.Sc with at least 50% marks and B.Ed qualification shall also be eligible for appointment for class I to V upto 1st January 2012 provided he undergoes after appointment an NCTE recognized 6 month special programme in Elementary Education.

(b) With D.Ed Special Education or B.Ed Speciation Education qualification shall undergo after appointment and NCTE recognized 6 month special programme in Elementary education.

2. Next document which he has brought to the notice of the Court is the Central Teacher Eligibility Test Examination Rules 2011. Rule 7 pertains to eligibility and Rule 7.1 pertains to minimum qualification for becoming teacher for Class I to V: I st Stage, which is being reproduced herein as under:-

7. Eligibility The following persons are eligible for appearing in the CTET.

7.1 Minimum Qualification for becoming Teacher for Classes I-V:

Primary Stage Senior Secondary (or its equivalent) with at least 50% marks and passed or appearing in final year of 2 year Diploma in Elementary Education (by whatever name known) OR 3 Senior Secondary (or its equivalent) with at least 45% marks and passed or appearing in final year 2 year Diploma in Elementary Education (by whatever name known) in accordance with the NCTE (Recognition Norms and Procedure) Regulations, 2002 OR Senior Secondary (or its equivalent) with at least 50% marks and passed or appearing in final year of 4 years Bachelor of Elementary

Education (B.El.Ed) OR Senior Secondary (or its equivalent) with at least 50% marks and passed or appearing in final year of 2 year Diploma in Education (Special Education) OR Graduation and passed or appearing in final year of two year Diploma in Elementary Education (by whatever name known) Rules 17 and 18 are also relevant which are being reproduced herein as under:-

17. It is to be noted that if a candidate has been allowed to appear in the Central Teacher Eligibility Test it does not imply that the candidate's eligibility has been verified. It does not vest any right with the candidate for appointment. The eligibility shall be finally verified, by the concerned recruiting agency/appointing authority. 18. Furnishing of false, wrong or inaccurate information may lead to cancellation of the test result, forfeiture of the certificate and even prosecution in appropriate cases.

3. He further refers the important announcement made by CBSE relating to CTET Examination 2011 wherein it is provided that only for the year 2011, B.Ed qualification is eligible for CTET. He submits that as per the 2011 Rules, as above, and furthermore, as per the Notification of NCTE dated 23.08.2010, B.Ed. qualification was eligible to appear in CTET Examination only up to 2011 and not after that. He submits that since all the private respondent have obtained CTET certificate after 2011, therefore, they are not at all eligible and the respondents without examining their 4 credentials, particularly CTET certificate, offered them appointment, though, in terms of Rule 18 of Central Teacher Eligibility Test Rule 2011 the State Government and the official respondent were under legal obligation to verify whether the private respondents were eligible to be appointed and without verifying respondents offered appointment.

4. Mr. Negi, learned senior counsel further pointed out that this aspect has been dealt with by the Division Bench of this Court in its judgment dated 29.04.2018 passed in bunch of Special Appeals in para 31 and 32, which are being reproduced herein as under:-

31. The problem arises, however, with the undoubted requirement in law that, be it a person who is having the minimum qualification or a person having B.Ed., he should also possess TET conducted by the appropriate Government in accordance with the guidelines issued by NCTE. The respondents are all persons, except those which we have made reference to earlier, who have obtained CTET. CTET is nothing but TET, which is conducted by the Central Government. The controversy is whether all the respondents, who have passed CTET also, therefore, under the statutory rules, read with the Advertisement, they would, on the surface, appear to be persons, who are fully eligible and qualified to be appointed. But the nice controversy that is sought to be projected by the appellants, who, it may be noted, have been worsted in the selection on the basis of the criteria, which has been employed (which is that whether persons with B.Ed. would be evaluated on the basis of the year of obtaining the B.Ed.), is that, since the party respondents have obtained CTET after 2011 and as per the conditions set out by CBSE, they were not eligible even to participate in CTET. Therefore, their having obtained CTET is of no avail.

In fact, it is impressed upon us by the learned counsel for the appellants that it has been mentioned in Clause 17 as follows:

"17. It is to be noted that if a candidate has been allowed to appear in the Central Teacher Eligibility Test it does not imply that the candidate's eligibility has been verified. It does not vest any right with the candidate for appointment. The eligibility shall be finally verified, by the concerned recruiting agency/appointing authority. The candidate should satisfy his/her eligibility before applying and shall be personally responsible in case he/she is not eligible to apply as per the given eligibility criteria."

32. Appellants would also remind us that the applications were given online and there was obviously no mechanism for CBSE to weed-out candidates, who were not eligible, and, hence, it is that the declaration contained in Clause 17 assumes significance. It is also reflected in the mark list. Therefore, it was the bounden duty of the State Government to crosscheck this aspect and weed-out those, who were not really eligible to participate in the test and it is here that the element of fraud is also emphasized before us.

5. In reference to the submissions, as advanced by Mr. Negi, Mr. Shashank Upadhyay, who appears for CBSE submits that after 2011, B.Ed. qualification was not eligible to appear in CTET examination. He fairly submits that CBSE always invites online form, and, since many persons apply, and, consequently, they permitted all of them to appear in CTET Examination and this aspect cannot be verified whether the concerned person, was, in fact, eligible to appear in CTET examination or not. He submits that there is no such Notification of the Central Government or the N.C.T.E. giving relaxation to B.Ed. trained candidates to appear in the CTET examination after 2011 for appointment to the post of Assistant Teacher in Primary Institution imparting teaching from Class I to V. He submits that it appears, while submitting online forms, the private respondents 6 have not disclosed that in fact they are not eligible for the CTET examination, therefore, they could not verify this aspect but under Rule 2011, it was legal obligation upon concerned State Government and their officials as well as recruiting agencies to verify whether the CTET certificate are valid for appointment to the post of Assistant Teacher in Primary Institution and it appears that without examining the credentials particularly year of CTET certificate of private respondents appointments were offered.

6. Mr. Pacholia, who appears for the N.C.T.E. also submits that their stand is very clear which has been also stated in the counter affidavit that there is no such Notification of the Central Government or the N.C.T.E. giving relaxation to the B.Ed. candidates to appear in CTET examination to be conducted by CBSE after 2011 and only this much relaxation was given by the NCTE to the B.Ed. upto 31.03.2016 to appear in TET examination to be conducted by the State of Uttarakhand. He further reiterate his submission in terms of the statement as given in para 10 of the counter affidavit that on the request of the State of Uttarakhand relaxation was granted to B.Ed. trained candidates to appear in UTET examination to be conducted by the State of Uttarakhand."

13. In the meantime, Mr. V.B.S. Negi pointed out that a fresh advertisement has issued. Consequently, on 08.12.2025 the respondents were directed to keep 11 posts of Assistant Teacher

(Primary) vacant, which were advertised in the month of November, 2025.

14. On 16.12.2025 again learned counsel for the parties advanced their argument and the stand of the State, NCTE and the CBSE was the same.

15. After gone through with the stand of NCTE and the CBSE and the State this court again observed that prima-facie the private respondents were not eligible to be appointed as Assistant Teacher in Primary Institution run by the State Government. This court also observed that ample opportunities were given to the respondents either to rectify their mistake or to appoint these petitioners against the vacancies which were advertised in the month of November, 2025 since 11 posts were directed to kept remain vacant but the official respondents are so adamant that they are repeatedly reiterating the same stand which are completely contrary to the stand of NCTE and the CBSE.

Ultimately, this court make an attempt to pass a balancing order taking into consideration that the private respondents whose appointments under challenge are large in numbers working since long back, therefore, without disturbing them the vacancies which has been recently advertised be filled up by the petitioners since there is no dispute on their eligibility. This court also take serious note of this aspect that instead of offering the appointment to the eligible candidates the official respondents deliberately offered the appointment to the ineligible candidates and it appears that neither they have gone through with the NCTE notification nor they examined that in the institution run by the State only TET qualified candidate to be conducted by the State are only eligible and the CTET certificate holder are eligible to be appointed only in the institution run by the Central Government.

Consequently, this court on 16.12.2025 after taking into consideration the previous order and the stand of the NCTE and CBSE passed an order by way of ad interim mandamus that the respondents may consider the candidature of the petitioners for appointment to the post of Assistant Teacher in Elementary Education against 11 posts, which has been kept vacant by the department in compliance to the order passed by this court, which were infact advertised in the month of November, 2025 and offering of such appointment shall be provisional and will be subject to the final outcome of the petition. While passing this order this court was also cautious about the fact that the private respondents herein are not eligible to be appointed but on 16.12.2025 in a peculiar circumstances the order was passed so that large number of candidates who were offered appointment in 2018 be not disturbed and ousted and it was balancing approach of this court otherwise this court was already of the view that the appointment of the private respondents are per se illegal since they were not eligible at all but taking into consideration their future prospects that after rendering services for more than 5 to 7 years they may not be ousted from job. Time was also stipulated to comply the interim direction by order dated 16.12.2025 but no attempt was made to comply this order rather State again make an effort to justify their stand by reiterating the same submissions which they advance before the Division Bench as well as to this Bench on previous occasions. Not only this though this order was passed on 16.12.2025 and we are in the month of May, 2026 but no attempt was made to file even the Special Appeal against this order. Subsequently, the matter was again came up after winter vacations on 16.02.2026 and on that day an excuse was given by the State that an opinion has been sought from the Law Secretary for compliance of the

direction.

16. On 18.02.2026 the then Chief Standing Counsel also advance his argument by placing reliance of the judgment passed by the Division Bench dated 04.09.2024 in Special Appeal No. 380 of 2022 and by referring this judgment Mr. Rawat submits that the present petitioners are not eligible. This is the first time when the Chief Standing Counsel raised an issue with regard to the eligibility of these petitioners by referring the judgment of the Division Bench in the Special Appeal. Consequently, on his argument the State was further given an opportunity to file an additional affidavit. In compliance to this, again an additional affidavit has been filed, but nothing new was pleaded and the same was repetition, which they have already pleaded in their previous affidavits, however, one additional plea was taken that there is no challenge to the Rules by the petitioners and this additional plea perhaps was taken without gone through with the previous orders and surprisingly a further plea was taken that the CTET is equivalent to TET.

How such an analogy has been derived by the official respondents to treat CTET as equivalent to TET though neither there is any such notification nor the rule with regard to such equivalence of CTET with the TET.

17. Consequently, on 24.02.2024 this court directed the official respondents to explain why the order dated 16.12.2025 has not been complied with. On 24.03.2026 the Secretary also joined the proceeding through V.C. and placed reliance to the judgment passed by the Hon'ble Apex Court in the case of Devesh Sharma vs. Union of India and Others i.e. Civil Appeal No. 506 of 2023 decided on 11.08.2023 and by placing reliance to the said judgment, he submits that the petitioners are not eligible since they are B.Ed. degree holders. Mr. V.B.S. Negi on that day seriously object on the submissions of the Secretary that the judgment rendered by the Hon'ble Apex Court in the case of Devesh Sharma have no applicability in the present case since in these petitions the recruitment initiated pursuant to the advertisement issued in the year of 2026 though the judgment in the case of Devesh Sharma is of subsequent thereto i.e. dated 11.08.2023.

On such objection of Mr. V.B.S. Negi the Secretary justified his stand that the judgment of the Hon'ble Apex Court in the case of Devesh Sharma was placed reliance since there was some hurdle in complying with the order dated 16.12.2025. The Secretary at that juncture justified since this court by order dated 16.12.2025 directed to consider the candidature of the petitioners in respect of the vacancies which were advertised in November, 2025 keeping 11 posts to be vacant so according to the Secretary those vacancies pertains the recruitment year of 2025-26, therefore, there is direct impact of the judgment of the Hon'ble Apex Court in the case of Devesh Sharma, however, this court clarified on 24.03.2026 that against 11 vacancies which were directed to be kept vacant the respondents were directed to consider the candidature of the petitioners since they were deprived to get the appointment in the recruitment process of advertisement issued in the year 2016 and furthermore the order dated 16.12.2025 was passed so that large number of candidates who were offered appointment, who are private respondents herein and their appointment are under challenge be not ousted from job. Consequently, on 24.03.2026 further opportunity was given to comply the order dated 16.12.2025 and the personal appearance of the officials were also exempted.

At this juncture this court is further clarifying why on 16.12.2025 this court passed an order to consider the candidature of the petitioners against 11 vacancies which were the vacancies of the recruitment year 2025-26 and why the judgment of the Hon'ble Apex Court will not come into the way since ad interim mandamus were issued keeping in view of the fact that they were deprived to get appointment pursuant to the advertisement issued in the year 2016 and furthermore large number of persons may not be ousted from job so on these two accounts the order dated 16.12.2025 was passed and the opportunity was given to comply the same.

18. This matter was being heard since long back but now surprisingly on 08.04.2026 Mr. V.B.S. Negi placed before this court an office memorandum dated 16.02.2026 issued by the Director and by this office memorandum the instructions were issued to concerned officials of some of the districts i.e. Chamoli, Tehri, Rudraprayag, Bageshwar, Almora and Pithoragarh to offer the appointments. By placing the aforesaid memorandum Mr. Negi submits that in the petitioners' case the respondents are relying upon the judgment rendered by the Hon'ble Apex Court in the case of Devesh Sharma and if it is so then the question is why by office memorandum dated 16.02.2026 the appointments were offered since the aforesaid judgment certainly will come in their way who were offered appointment by way of order dated 16.02.2026. It was also pointed out that the then Director passed the aforesaid office memorandum on 16.02.2026 at the verge of his retirement and, on such submission notice was also issued to him to file his personal affidavit and in compliance thereof the then Director filed his personal affidavit. In his affidavit he submits that he issued office memorandum on the instructions of the Government though Mr. Ganesh Kandpal, learned State counsel, take a plea that there was no such instructions and if there was some hurdle the then Director should have to seek a further clarification. Subsequently, it has been apprised that all those appointments have been cancelled. The question of offering appointment to 19 candidates pursuant to office memorandum dated 16.02.2026 is not the issue before this court, however, what this court observed that if there was any such office memorandum of 16.02.2026 why on 18.02.2026, 24.02.2026, 16.03.2026 and 24.03.2026 the official respondents have not apprised about the said office memorandum, therefore, this court is of the view that deliberately with an intention to mislead this court the office memorandum dated 16.02.2026 was suppressed by the official respondents.

19. Now, today, Mr. Rajeev Singh Bisht, learned Deputy A.G. submits that the identical issue has been dealt with by the Coordinate Bench in its judgment dated 22.12.2023 passed in WPSS No. 2242 of 2019, the copy of which in advance was also supplied to Mr. V.B.S. Negi.

20. I have gone through with the judgment and after gone through with the judgment what this court observed that this judgment has no applicability since the petition was dismissed on the ground that there was no challenge of certificates of the private respondents within a reasonable time and furthermore there is no allegation that relevant recruitment rules were not followed while appointing the private respondents and there is no allegation that the private respondents are not eligible. It appears that Mr. Rajeev Singh Bisht without gone through with the record of this petition make such a plea that the identical issue has been dealt with by the Coordinate Bench. Before placing reliance to the judgment of the Coordinate Bench atleast he has to go through with the record of this petition and particularly the reliefs as sought and atleast he has to go through with the

judgment passed by the Division Bench. Neither he has gone through with the relief nor gone through with the record and the order of Division Bench whereby the Division Bench remanded the matter to decide the matter afresh. How he can take such a plea that the identical issue has been dealt with by the Coordinate Bench. This court is not interested to go on all these issues. Now the application has been moved by the petitioner under Article 215 of the Constitution of India for initiation of contempt proceeding against the official respondents for non-compliance of the order passed by this court on 16.12.2025.

21. Mr. V.B.S. Negi also submits repeatedly the officials are giving misleading statements by way of an affidavit, therefore, it also amounts to contempt.

22. Admittedly, against the order dated 16.12.2025 neither an appeal has been filed under Chapter VIII Rule V of the High Court Rules and even no such application was moved to recall or to modify, therefore, in such an eventuality, the official respondents have to comply the order dated 16.12.2025. Let they may file their response positively within three days to the application moved under Article 215 of the Constitution of India, failing which, all the respondents shall remain present in court.

23. Put up this matter on 21.05.2026 on top of Board.

(Rakesh Thapliyal, J.) 18.05.2026 PR