

**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 3657 of 2021**

1. Kamal Kishor Sahu S/o Tribhuvan Lal Sahu Aged About 28 Years R/o Sheetla Chowk, Mawlipara, Kanker, District Kanker Chhattisgarh.
2. Mukesh Kumar Netam S/o Bacchu Ram Netam Aged About 31 Years R/o Village Tumanar, Post Amabeda, District Kanker Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Secretary, School Education Department, Mantralaya Mahanadi Bhawan Atal Nagar, Naya Raipur, District Raipur Chhattisgarh
2. Director Public Instructions Indrawati Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh.
3. District Education Officer Raipur, District Raipur Chhattisgarh.
4. Director National Council For Teacher Education, Wing No. 2, Hans Bhawan, Bahadurshah Jafar Marg, New Delhi.
5. Keshav Vishwakarma Behind Mission Compound, Ward No. 10, Imlibhatha, Mahasamund, District Mahasamund Chhattisgarh.

----Respondents

For Petitioners	:	Mr. C. Jayant K. Rao, Advocate
For State	:	Mr. Amrito Das, Additional A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****16/07/2021**

1. The short question involved in the present writ petition is 'whether the candidate, who has passed the Central Teacher Eligibility Test (CTET) would be eligible for participation in the recruitment process for appointment to the post of Teacher in the State of Chhattisgarh without qualifying the Teacher Eligibility Test (TET) conducted by the State Government'.



2. The relevant facts, which is necessary for the adjudication of the present writ petition is that an advertisement was issued by the respondents for filling up of various posts of Teachers, Assistant Teachers, in the various subjects for the various schools in the State of Chhattisgarh. The petitioners also had applied for the post of Teacher (Biology). For ready reference, the minimum eligibility criteria for participation in the said recruitment process for the post of Teacher is as under:

“(दो) शिक्षक

(क) स्नातक और प्रारंभिक शिक्षाशास्त्र (चाहे उसे किसी भी नाम से जाना जाता हो) में द्विवर्षीय डिप्लोमा

अथवा

न्यूनतम 50 प्रतिशत अंकों के साथ स्नातक एवं शिक्षा (बी.एड) में एक वर्षीय स्नातक

अथवा

न्यूनतम 45 प्रतिशत अंकों के साथ स्नातक एवं शिक्षा (बी.एड) में एक वर्षीय स्नातक, जो इस संबंध में समय-समय पर जारी किये गये राष्ट्रीय अध्यापक शिक्षा परिषद् (मान्यता, मानदण्ड तथा क्रियाविधि) विनियमों के अनुसार प्राप्त किया गया हो।

अथवा

न्यूनतम 50 प्रतिशत अंकों के साथ उच्चतर माध्यमिक अथवा इसके समकक्ष एवं चार वर्षीय बी.ए./बी.एस.सी.एड. या बी.ए.एड./बी.एस.सी.एड

अथवा

न्यूनतम 50 प्रतिशत अंकों के साथ स्नातक तथा एक वर्षीय बी.एड. (विशेष शिक्षा)

तथा

(ख) राष्ट्रीय अध्यापक शिक्षा परिषद् द्वारा इस प्रयोजन के लिए जारी किए गए मार्गदर्शी सिद्धांतों के अनुसार समुचित सरकार द्वारा आयोजित अध्यापक पात्रता परीक्षा (टी.ई.टी.) में उत्तीर्ण।”

3. The private respondent i.e. the respondent No.5-Mr. Keshav Vishwakarma also had applied for the said post of Teacher (Biology). Apart from the educational qualification required for the said post, the petitioners in the instant case had cleared the TET examination conducted by the State of Chhattisgarh, whereas the





private respondent No.5 had cleared the CTET. Both of them having participated, the respondent No.5 has been found meritorious and after due process of selection, the offer of appointment has also been issued. The petitioners also were found meritorious, however their name stood lower in the order of merit and therefore they have been placed in the waiting list. The contention of the petitioners now in the present writ petition is that the recruitment Rules governing the field is the Chhattisgarh School Education Services (Educational and Administrative Cadre) 2019. Under the said Rules, it is specifically held that the candidates must have to pass the TET conducted by the appropriate government and according to the petitioners, the appropriate government in the instant case would be the State of Chhattisgarh and therefore it is only the candidate, who has cleared the TET examination conducted by the State of Chhattisgarh, who would be eligible for participation in the selection process from the aforementioned advertisement.

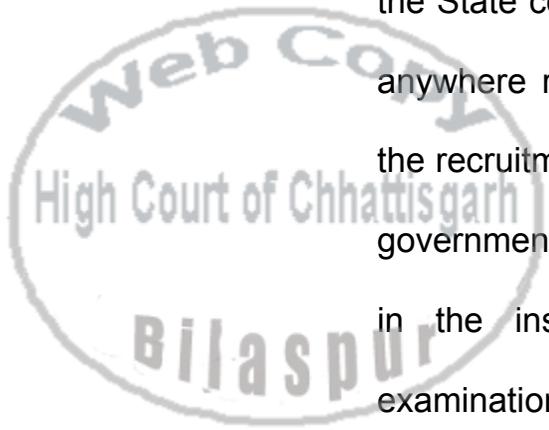
4. That since the respondent No.5 have cleared the CTET conducted by the Central Board of Secondary Education, the respondent No.5 as such does not meet the requisite eligibility criteria under the Rules as also under the advertisement and therefore the proposal for giving appointment to the respondent No.5 is bad in law and also contrary to the Rules. Hence, the candidature of the respondent No.5 should be rejected and the petitioners in turn should be considered. According to the petitioners, the very reference in the Rules of 2019 prescribing the requirement of TET conducted by the appropriate government itself means only the examination conducted by the State of Chhattisgarh and it cannot be that of any





other agency or government. The counsel for the petitioners also drew the attention of the Court to the Right of Children to Free and Compulsory Education Act, 2009 for the purpose of determining the meaning of appropriate government under the respective Rules.

5. The State counsel on the other hand opposing the petition submits that the term 'appropriate government' in the Rules does not exclude the candidates who have cleared CTET. According to the State counsel, the requirement is that of a candidate having cleared the TET, which is conducted by an 'appropriate government' in accordance with the guidelines framed by the NCTE. According to the State counsel, neither the Rules of 2019, nor the advertisement anywhere restricts the candidates with CTET, from participating in the recruitment process, rather it is inclusive in the term 'appropriate government'. As per the State counsel, the 'appropriate government' in the instant case refers to the authority conducting the examination, which would be either the State Government or the Central Government as the case may be. The only aspect, which needs consideration is 'whether the examination has been conducted in terms of the guidelines framed by the NCTE. The State counsel submits that it is not the case of the petitioners that the CTET cleared by the petitioners is not in terms of the guidelines framed by the NCTE, thus there is no dispute that the petitioners are the qualified CTET candidates.
6. Having heard the contentions put forth on either side and on perusal of record, what requires at this juncture to be appreciated is the Rules of 2019, which prescribed the minimum eligibility criteria for the post of Teacher and the said criteria prescribed is the same,





which has been reproduced in the preceding paragraph, which is part of the advertisement. For ready reference English version of the Rules of 2019 is reproduced herein under:-

“(ii) **Teacher:**

(a) **Graduation and 2 year diploma in Elementary Education (by what ever name known).**

OR

Graduation with at least 50% marks and 1 year Bachelor in Education (B.Ed.)

OR

Graduation with at least 45% marks and 1 year Bachelor in Education (B.Ed.) in accordance with the NCTE (Recognition, Norms and Procedure) Regulations issued from time to time in this regard.

OR

Higher Secondary or its equivalent with at least 50% marks and 4 years B.A./B.Sc.Ed. or B.A.Ed./B.Sc.Ed.

OR

Graduation with at least 50% marks and 1 year B.Ed. (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.”

7. The Rules of 2019 specifically defines Teacher Eligibility Test. For ready reference, the definition of TET under Rule 2(t) reads as under:-

“2(t) **'Teachers Eligibility Test'** means the teacher eligibility test conducted for the post filled up by direct recruitment of educational cadre.”

8. The said definition of TET does not excludes the TET conducted by the Central Government. It only refers to the term 'appropriate government' which in other word means a TET conducted by an 'appropriate government' would be acceptable as a valid qualification for the purpose of recruitment in the State of Chhattisgarh. This Court finds sufficient force in the argument of the





Additional Advocate General, when he says that if the intention of the Government was to be given a restrictive interpretation, then the term 'appropriate government' would not have been used by the Government at the time of framing of the Rules, it would have simply mentioned TET conducted by the State of Chhattisgarh.

9. Even otherwise, the contention of the petitioners cannot be accepted for the simple reason that if such an analogy is to be accepted, it would be too harsh a decision for all those candidates, who have cleared the CTET, even though they may be permanent resident of the State of Chhattisgarh, getting disqualified or denied participation only on the ground of not clearing the TET of Chhattisgarh and as such the same would be per se violative of Article 14.

10. Clearing CTET a candidate has the advantage of applying for the post published by the State of Chhattisgarh and also for applying for all those posts advertised by the Central Government in respect of the schools run exclusively by the Central Government in terms of the guidelines issued by the NCTE itself. Needless to mention at this juncture that this Court in the past in a similar set of facts arising out of the same recruitment had dismissed a writ petition i.e. **WPS No. 5423/2020 (Azhar Ali & others v. State of Chhattisgarh & others)**, decided on 17.12.2020, wherein in paragraph No.4 has held as under:

“4. From the plain reading of aforementioned clause (iii), it clearly reflects that the Central Board of Secondary Education has laid a prerogative of the State Government to accept the candidates of CTET if it decides not to conduct the State TET, which by itself would mean that the candidates of CTET are otherwise eligible for being





considered for the post of Assistant Teacher, Teacher and Lecturer.”

11. For all the aforesaid given facts and circumstances of the case, this Court is of the firm view that the very reference in the recruitment Rules dealing with the minimum qualification clearly envisaging that candidate must be passed in TET candidate by the 'appropriate government' in terms of the guidelines of the NCET, means a TET conducted either by the State of Chhattisgarh or for that matter the Central Government. The said provision of the Rules cannot be given a restrictive interpretation. Thus, this Court does not find any strong case made out by the petitioner for issuance of any writ restraining the respondents from issuing an order of appointment in favour of the respondent No.5.

12. Accordingly the question of law, which was put for adjudication in the writ petition is answered in the affirmative in holding that for appointment to the post of Assistant Teacher and Teacher in the State of Chhattisgarh, where the Rules of 2019 is applicable a candidate who has passed CTET also is eligible for participation.

13. The writ petition thus sans merit and therefore deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge