

A

OMKAR SINGH

v.

STATE OF U.P. & ORS.

(Civil Appeal No.5564 of 2019)

B

JULY 16, 2019

[ARUN MISHRA, S. ABDUL NAZEER AND M.R. SHAH, JJ.]

- Education/Educational Institutions: Eligibility criteria for appearing in Teacher Eligibility Test (TET) – NCTE by Notification dated 23.08.2010 laid down minimum qualification for a person to be eligible for appointment as a teacher in class I to VII – One of the eligibility criteria stated therein is “passed in the TET to be conducted by appropriate government in accordance with the guidelines framed by the NCTE for the purpose” – The eligibility for the TET examination is provided in Para 5 of the NCTE Guidelines*
- C – *Para 5 of the guidelines states that the incumbents who have acquired the qualification academic as well as professional can apply for TET examination – The second category of candidates who can apply for TET examination is those who are “pursuing” any TTC – Issue involved in these appeals is the meaning and interpretation of the word “pursuing” as appearing in Para 5(ii) of the NCTE Guidelines – Held: The meaning of “pursuing” is a person who is undergoing any of TTC – He/she must have been admitted and pursuing TTC which is prescribed as a qualification – Declaration of the result, appearing in the examination or date of filling up of the forms, etc. cannot be the criteria to appear in the TET examination – Therefore, a candidate who is undergoing i.e., “pursuing” the requisite TTC shall be eligible to appear in the TET examination – By impugned order, Division Bench of the High Court in respect of eligibility held that as on the last date specified for filling up the online form for TET examination, the candidates must have appeared in the examination (of TTC) and the result has not been declared – These riders are not proper in view of clear language used in clause 5(ii) of the NCTE guidelines – Division Bench of High Court read into and/or added something more than what is provided in clause 5(ii) of the NCTE guidelines – The language*
- F – *Para 5 of the guidelines states that the incumbents who have acquired the qualification academic as well as professional can apply for TET examination – The second category of candidates who can apply for TET examination is those who are “pursuing” any TTC – Issue involved in these appeals is the meaning and interpretation of the word “pursuing” as appearing in Para 5(ii) of the NCTE Guidelines – Held: The meaning of “pursuing” is a person who is undergoing any of TTC – He/she must have been admitted and pursuing TTC which is prescribed as a qualification – Declaration of the result, appearing in the examination or date of filling up of the forms, etc. cannot be the criteria to appear in the TET examination – Therefore, a candidate who is undergoing i.e., “pursuing” the requisite TTC shall be eligible to appear in the TET examination – By impugned order, Division Bench of the High Court in respect of eligibility held that as on the last date specified for filling up the online form for TET examination, the candidates must have appeared in the examination (of TTC) and the result has not been declared – These riders are not proper in view of clear language used in clause 5(ii) of the NCTE guidelines – Division Bench of High Court read into and/or added something more than what is provided in clause 5(ii) of the NCTE guidelines – The language*
- G – *Para 5 of the guidelines states that the incumbents who have acquired the qualification academic as well as professional can apply for TET examination – The second category of candidates who can apply for TET examination is those who are “pursuing” any TTC – Issue involved in these appeals is the meaning and interpretation of the word “pursuing” as appearing in Para 5(ii) of the NCTE Guidelines – Held: The meaning of “pursuing” is a person who is undergoing any of TTC – He/she must have been admitted and pursuing TTC which is prescribed as a qualification – Declaration of the result, appearing in the examination or date of filling up of the forms, etc. cannot be the criteria to appear in the TET examination – Therefore, a candidate who is undergoing i.e., “pursuing” the requisite TTC shall be eligible to appear in the TET examination – By impugned order, Division Bench of the High Court in respect of eligibility held that as on the last date specified for filling up the online form for TET examination, the candidates must have appeared in the examination (of TTC) and the result has not been declared – These riders are not proper in view of clear language used in clause 5(ii) of the NCTE guidelines – Division Bench of High Court read into and/or added something more than what is provided in clause 5(ii) of the NCTE guidelines – The language*

H

used in clause 5 (ii) of the NCTE guidelines is simple, clear and unambiguous – In the instant case, admittedly, on the cut-off date, all the candidates were pursuing the concerned TTC – Thereafter, all of them cleared the TET examination as well as cleared the concerned TTC – At the time when they were appointed as Assistant Teachers, all of them fulfilled the eligibility criteria for appointment as Assistant Teachers – All of them passed the TET examination and also passed the TTC as per the requisite eligibility criteria – Thus, ousting certain incumbents by the High Court cannot be sustained since they were pursuing TTC and they were clearly eligible to appear in the TET examination and passed it while pursuing the requisite professional qualification for being eligible to be appointed as Assistant Teachers – The respective appellants whose appointments were challenged were eligible to appear in the TET examination at the time they were “pursuing” the concerned TTC – Thus, the decision of the High Court, to the aforesaid extent, is not sustainable – The impugned orders of the High Court are accordingly modified to the aforesaid extent – As regards the submission with regard to persons who have passed Graduation without Science or Mathematics as one of the subjects is concerned, the concerned District Education Officers are directed to carry out the exercise to find out such candidates who are Graduate and have been appointed as Assistant Teachers without having Science or Mathematics as one of the subjects, within a period of three months – Right of Children to Free and Compulsory Education Act, 2017 – s.23 – Interpretation of statutes – Uttar Pradesh Basic Education Act, 1972 – s.2(1)(b) – Teacher Training – Uttar Pradesh Basic Education (Teachers) Service Rules, 1981 – r.8 – NCTE Guidelines.

Interpretation of Statutes: As per the cardinal principle of the rule of interpretation, while construing a particular provision, the particular provision is required to be read as it is and nothing is to be added or taken away – Education/Educational Institutions.

Interpretation of Statutes: The expression ‘rule of literal construction’ lays down that words of a statute are first understood in their natural, ordinary or popular sense and phrases, and sentences are construed according to their grammatical meaning – Education/Educational Institutions.

H

- A *Words and Phrases: Word “pursuing” – Meaning of – Education/Educational Institutions.*

**G.P. Singh in ‘Principles of Statutory Interpretation’
(14th edn.) at p. 91 – referred to.**

- B CIVIL APPELLATE JURISDICTION: Civil Appeal No.5564 of 2019

From the Judgment and Order dated 30.05.2018 of the High Court of Judicature at Allahabad in Special Appeal No. 506 of 2018

With

- C Civil Appeal Nos. 5569, 5566, 5570, 5568, 5565, 5571, 5572, 5567, 5573, 5574, 5575, 5576, 5577, 5583, 5582, 5586, 5579, 5578, 5584, 5585, 5580, 5588, 5587, 5581, 5590, 5589, 5591, 5592 of 2019.

- R. Venkataramani, Dinesh Dwivedi, V. Shekhar, Nidhesh Gupta, Rupender Singh Suri, Rakesh K. Khanna, Shyam Divan, Mrs. V. Mohana, Mrs. Kiran Suri, P. V. Surendranath, Pallav Shishodia, Ajay K. Mishra, Sr. Advs., R. K. Singh, Kumar Gaurav, Robin Khokhar, Yash Raj Bundela, Praveen Vignesh, Sandeep Kumar Dwivedi, Ms. Japneet Kaur, Ms. Vriti Gujral, Ms. Pallavi Singh, Anzu. K. Varkey, Mrs. Neeraj Singh, Ms. Harshita Raghuvanshi, K. Ramesh, Aditya Giri, Vikas Singh, Rameshwar Prasad Goyal, Ms. Roopali Chaturvedi, Prashant Shukla, Suyash Srivastava, Ms. Nikita Kapoor, Ms. Shreya Mishra, Ravindra Sadanand Chingale, Mrs. Neeraj Singh, Ms. Ritu Reniwal, Rohit Singh, Ms. Resmitha R. Chandran, Ms. Lekha Sudhakaran, Ved Prakash, Sanjay Rastogi, Pradeep Kumar Dwivedi, Dr. Vinod Kr. Tewari, Rajesh K. Singh, Krishnanand Pandeya, Ms. Pooja, Ravi S. Jha, Kedar Nath Tripathy, Mukesh Verma, Sanjeet Paliwal, Sibo Sankar Mishra, Niranjan Sahu, Raj Singh Rana, Ms. Parul Shukla, Gaurav Yadava, Virendra Kasana, Vijay Pratap Yadav, Karunakar Mahalik, Ms. Preetika Dwivedi, Prithvi Raj Singh, Ms. Sheetal Rajput, Sushil Kumar, Rajeev Kumar Gupta, Mrs. Prachi Bhatnagar, Balraj Dewan, Mrigank Prabhakar, Devvrat, Ms. Priyanka Das, Tom Joseph, U. C. Mohanty, Binay Kumar Das, P. Dayal, Rajesh Sharma, Ms. Shalu Sharma, Anand Nandan, Rajesh Srivastava, Abbula Kalam, Abdul Qadir, Fuzail Ahmad Ayyubi, Vaibhav Manu Srivastava, Manoj K. Mishra, Rakesh Uttamchandra Upadhyay, Shafiq Khan, Ms. Nidhi Singh Dubey, Sanjay Rastogi, Dhruv Gautam, Devashish Chauhan, Ms. Pallavi Mishra, Ms. Neha Agarwal, Ms. Charu H Ambwani, Nishesh Sharma, Durga Dutt, Rohit Priyadarshi, Rahul Kumar

Tripathi, Parminder Singh Bhullar, Vivek Singh, Swastik Dalai, A. Lakshminarayanan, Ms. Manju Jetley, Amit Pawan, Ms. Garima Prashad, Satyajeet Kumar, Rakesh Mishra, Bimlesh Kumar Singh, Rajeev K. Gupta, Ashutosh Bhardwaj, Rajesh Srivastava, Puskar Sharma, Susheel Tomar, Sanjeev Malhotra, Raj Kishor Choudhary, Ms. Kamakshi S. Mehlwal, Nishit Agrawal, Harsh Mishra, Udayaditya Banerjee, Ms. Khushboo Vinodray Malkan, Alok Singh, Narayan R. Panicker, Dr. Amarendra P. Yadav, Abhishek Singh, Ms. Manju Sharma Jaitley, Advs. for the appearing parties.

The following Order of the Court was passed:

O R D E R

1. Leave granted. Applications for impleadment are allowed to the extent of intervention.

2. All these appeals have been preferred against the impugned common judgment and final order of the Division Bench of the High Court of Judicature at Allahabad on 30.05.2018 in Special Appeal NO.506/2018 deciding the bunch of the matters.

3. The singular question involved is whether the incumbents who were pursuing any of the Teachers Training Course (for short ‘TTC’) (recognized by the National Council for Teachers Education (for short ‘NCTE’) or the Rehabilitation Council of India (for short ‘RCI’) as the case may be) could have appeared in the Teachers Eligibility Test (for short ‘TET’) prescribed by the NCTE?

4. The basic education is defined under Section 2(1)(b) of the Uttar Pradesh Basic Education Act, 1972 (for short “Act of 1972”) to mean education up to class VIII imparted in schools other than high schools or intermediate colleges. Section 19 of the Act of 1972 provides for rulemaking power of the State Government and envisages that the State Government by notification may make rules for carrying out purposes of the Act. The Uttar Pradesh Basic Education (Teachers) Service Rules, 1981 have been framed in exercise of the powers under Section 19 of the Act of 1972. Rule 8 of the 1981 Rules provides for essential qualification of the candidates for appointment to the post of Assistant Master of Senior Basic School and Assistant Mistress of Senior Basic School for teaching Science and Mathematics and require a candidate to have Bachelor Degree with Science and Mathematics and

A

B

C

D

E

F

G

H

A training qualification of B.T.C., C.T., B.Ed. and B.Ed. Special Education or a course recognized by RCI and passed Teacher Eligibility Test conducted by the Uttar Pradesh Government or the Government of India.

4.1. The Right of Children to Free and Compulsory Education Act, 2009 (in short 'Act of 2009') was enacted w.e.f. 16.02.2010. The

B Central Government in exercise of power under sub-Section (1) of Section 23 of the Act of 2009 vide notification dated 31.3.2010 authorized the NCTE as an academic authority to lay down the minimum qualification for a person to be eligible for appointment as a teacher. The Constitution (Eighty-Sixth Amendment) Act, 2002 inserting Article 21A relating to the Right to Education was given effect from 01.04.2010. Article 21A

C postulates that the State shall provide free and compulsory education to all the children of age from 6 to 14 years in such manner as the State may determine. The NCTE, the academic authority, laid down minimum qualification for a person to be eligible for appointment as a teacher in class I to class VIII. The dispute in this matter is confined to the

D appointment of Assistant Teacher in Class VI to VIII.

4.2 The NCTE vide notification dated 23.08.2010 laid down the qualifications for minimum qualifications for a person to be eligible for appointment as a teacher in class I to VII as under:

"1. Minimum Qualifications:-

E (I) Classes I-V

(a) Senior Secondary (or it's equivalent) with at least 50 % marks and a 2-year diploma in Elementary Education (by whatever name known)

F

or

Senior Secondary (or it's equivalent) with at least 45% marks and 2-year Diploma in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure), Regulations 2002.

G

or

Senior Secondary (or it's equivalent) with at least 50% marks and 4 year Bachelor of Elementary Education (B.El.Ed.)

H

or

A

Senior Secondary (or it's 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 B
the appropriate Government in accordance with the guideline
framed by the NCTE for the purpose.

(ii) Classes VI-VIII

(a) B.A./B.Sc and 2-year Diploma in Elementary Education (by C
whatever name known)

or

B.A./B.Sc. With at least 50% marks and 1 year Bachelor in
Education (B.Ed.)

or

D

B.A/B.Sc. 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

E

Senior Secondary (or it's equivalent) with at least 50% marks and
4 year Bachelor in Elementary Education (B.El.Ed.)

or

Senior Secondary (or its equivalent) with at least 50% marks and F
4 year BA/B.Sc./B.Sc.Ed. Or B.A.Ed./B.Sc.Ed.

Or

B.A./B.Sc. With at least 50% marks and 1-year B.Ed.(Special
Education)

G

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.”

H

A 5. The Right of Children to Free and Compulsory Education Act, 2009 has been further amended by inserting a second proviso under Section 23 on 01.04.2015 as under:

B “Provided further that every teacher appointed or in position as on the 31st March 2015, who does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of four years from the date of commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017.”

C 5.1 As one of the eligibility criteria for appointment as a teacher as per the notification issued by the NCTE dated 23.8.2010 is passed in the TET to be conducted by the appropriate government in accordance with the guidelines framed by the NCTE for conducting the TET, it has been mentioned that it is necessary to ensure that persons recruited as teachers possess the essential aptitude and ability to meet the challenges of teaching at the primary and upper primary level.

D 5.2 As per the guidelines framed by NCTE for conducting the TET, the rationale for including the TET as a minimum qualification for a person to be eligible for appointment as a teacher is given in the Guidelines for conducting Teacher Eligibility Test (TET) are extracted hereunder:

E “3 The rationale for including the TET as a minimum qualification for a person to be eligible for appointment as a teacher is as under:

F “i. It would bring national standards and benchmark of teacher quality in the recruitment process;
ii. It would induce teacher education institutions and students from these institutions to further improve their performance standards;
iii. It would send a positive signal to all stakeholders that the Government lays special emphasis on teacher quality.”

G 5.3 The eligibility for the TET examination has been provided in para 5 of the Guideline as under:

“Eligibility

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

H

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.”

A

B

C

(emphasis supplied)

5.4 It is apparent that the condition No.(i) of para 5 is that a person who has acquired academic and professional qualifications as per notification dated 23.8.2010 can appear in the TET examination. As per para 5 (ii), a person who is “*pursuing*” any of the teacher education courses recognized by NCTE or the RCI, as specified in Notification dated 23.08.2010 shall be eligible for appearing in the TET. As per para 5(iii), the eligibility condition for appearing in TET may be relaxed in respect of State/UT which has been granted relaxation under Section 23 (2) of the RTE Act of 2009. The relaxation will be specified in the notification issued by the Central Government.

D

E

6. In the State of U.P., a Government Order dated 7.9.2011 had been issued for conducting TET which provided that a candidate having B.A, B.Sc, B.Com. and TTC passed are eligible to appear in the TET and subsequently, the State of U.P. issued another Government Order dated 17.9.2011 in the modification of the earlier Government Order dated 7.9.2011, whereby the eligibility guidelines came to be amended in pursuance of the NCTE notification dated 29.7.2011 and in place of B.A., B.Sc., B.Com. the words “Graduate” came to be substituted. Thereafter, the aforesaid Government Orders dated 7.9.2011 and 17.9.2011 came to be amended vide G.O. dated 4.10.2011 and for that examination, such candidates were authorized to appear who have passed TTC recognized by the NCTE or who were appearing in the last year examination of TTC. The last date of submission of the applications for

F

G

H

- A UPTET was 18.10.2011. The UPTET examination was held on 13.11.2011. On 25.11.2011 UPTET examination result was declared. At this stage, it is required to be noted that similarly CTET examination was conducted by the Central Government authorizing such candidates to appear who were pursuing the TTC but have not passed the TTC examination. Thereafter on 17.4.2013, the government order was issued for conducting UPTET examination 2013 and the consequential office orders were issued.

- B
- C 7. The learned Single Judge in Writ Petition No. 3100 of 2013 (Vinod Kumar Singh and others vs. State of UP and others) passed an order dated 13.3.2013 allowing, as an interim measure, the candidates pursuing the TTC to appear in the TET examination making the result subject to further orders of the Court. Thereafter, the Government Order dated 17.4.2013 came to be issued for conducting UPTET examination 2013 and consequential office orders were issued. Then a bunch of writ petitions came to be filed before the High Court by such candidates who
- D were pursuing TTC or appearing in the last year examination of TTC with a prayer that they are being deprived to appear in the TET on the ground that they have not passed TTC.

- E 7.1 The High Court disposed of the aforesaid bunch of writ petitions directing the State Government to take notice of the guidelines of NCTE for eligibility and issue appropriate instructions or government order in the event it is found that the writ petitioners are also entitled to appear in the examination. In compliance of the aforesaid order passed by the High Court dated 13.5.2013, a Government Order dated 15.05.2013 came to be issued by the State Government modifying the Government Order dated 17.4.2013 and the office orders providing therein that such
- F candidates may also be entitled to appear in the TET examination who are appearing in TTC examination. It also provided that such candidates will be allowed provisionally to appear in the TET examination with a condition that TET examination passed certificate will be valid only after passing the TTC examination. The UPTET examination was held on
- G 27/28.6.2013 and the result of the UPTET 2013 was declared on 13.11.2013. At this stage, it is required to be noted that the respective appellants – original respondents before the High Court are the candidates who have passed UPTET examination, however, at the relevant time when they appeared in the TET examination, all of them were pursuing

H

their TTC course. It appears that thereafter a Government Order dated 11.7.2013 was issued for filling up 14667 posts of Assistant Teachers of Science and 14667 posts of Assistant Teachers of Maths, total 29334 posts of Assistant Teacher of Senior Basic Schools (Class VI to VIII). The Government Order further provided eligibility educational qualification as B.Sc. and TTC recognized by the NCTE and TET passed. The academic qualification was modified in place of B.Sc. and it was made graduation with a subject of Science or Maths, as the case may be. As against the aforesaid vacancies, the candidates who have passed UPTET examination 2011, CTET examination 2012, UPTET examination 2013 and CTET examination 2013 were eligible to apply. The last date for submission of the applications was 30.09.2013, which was further extended to 10.10.2013. All the appellants applied pursuant to the aforesaid advertisement. All of them were appointed and all of them are working as Assistant Teachers in the respective subjects since 2015.

7.2 After a period of two years – in the year 2017, a bunch of petitions came to be filed before the High Court challenging the appointments/appointment process initiated by the State Government by G.O. dated 11.7.2013. Twofold submissions/grievances were made, firstly, that the appointments have been offered to persons who are ineligible in terms of the qualifications specified, inasmuch as they do not have Science or Mathematics as one of the subjects in the Graduation Degree, and secondly, the persons who had not passed an examination or were not in the final year of their TTC had also appeared in the TET examination, which was impermissible, and that, such persons have also been appointed. The learned Single Bench of the High Court disposed of the aforesaid petitions vide judgment and order dated 8.5.2018. The learned Single Judge observed and held as under:

“In view of the notification issued by the NCTE dated 11th of February, 2011, as well as the Government Order issued on 15th of May, 2013, the inescapable conclusion culled out from the provision is that only those persons are eligible to appear in the TET examination who have acquired academic and professional qualification and have either obtained training qualification or are pursuing any of the teacher education courses.

In view of the interpretation given to the word “pursuing” by this Court, which stands implemented vide Government Order dated

A

B

C

D

E

F

G

H

- A 15th of May, 2013, it is clear that only those persons, who are in the final year of their teacher training courses, alone, would be entitled to appear in the TET examination.
- B The appointing authority, therefore, is directed to ensure that before appointment letters are issued to the candidate, he/she must have passed TET after completing a training course or such persons were in the final year of their training examination. A person, who does not come in either of the two categories, would not be issued any appointment order. The State Government shall implement its Government Order of 15th of May, 2013 and circulars would be issued for its strict compliance by the appointing authorities. The appointing authorities shall also clearly state such fact in the appointment letter issued to the candidates appointed as Assistant Teachers.
- C This takes the Court to the last limb of petitioners' grievance, regarding those who have been appointed as Assistant Teachers, even while they had not even completed the first year of their teacher training course. By way of illustration, some of the petitioners have annexed materials to show that appointment orders have been issued to persons who have passed TET even before completing the first year of their training course. Such appointment orders would be inconsistent with the Government Orders, already issued by the State Government, dated 15th of May, 2013 as well as NCTE circular dated 11th of February, 2011.
- D Liberty, therefore, is reserved to the petitioners to challenge such specific appointments before the appointing authorities, i.e., the District Basic Education Officer concerned, at the first instance, who shall examine such individual grievances on facts after affording the opportunity of hearing to the selected candidates.
- E The process, in that regard, would be concluded within a period of six months from the date of raising such grievance, along with a certified copy of this order, before the appointing authority."
- F 7.3 The judgment and order passed by the learned Single Bench dated 8.5.2018 was the subject matter of appeals before the Division Bench of the High Court. By the impugned common judgment and order, the Division Bench has opined differently as under:
- G
- H

“A perusal of Clause 5(ii) of the notification dated 11th February 2011 issued by the NCTE indicates that a person who is pursuing any of the teachers’ training courses specified in the NCTE Noti23.8.2010 dated 23rd August 2010 would also be eligible. It appears to us that this benefit was considered to be given to such candidates whose teacher training course result had not been declared by the last date specified for filling the online form for TET examination. That is why such persons who were pursuing the teacher training course could appear at the TET examination.

In our opinion “pursuing any of the teacher training course” should not be restricted only to such persons who were appearing in the examination of the teacher training course. It should also include such persons who have studying in the course but examination had not been held. But what is important is that such persons should have been declared successful in the teachers training course before the date on which the examination result of TET is declared. If such interpretation is not given then even if a candidate does not pass the teachers’ training course, the TET Certificate would be issued to him and this would enable him to seek appointment as an Assistant Teacher even though he has not passed the qualifying examination. This clause merely facilitates such person to appear at the TET examination even if the result of the teacher training course has not been declared. This interpretation would subserve the purpose for which such persons were considered eligible. To give any other interpretation would defeat the purpose of the facility that has been provided to such persons.

In support of this interpretation, it would be appropriate to refer to the schedule that was placed before the Court for the 2011 examination. The last date for applying was 18 October 2011. The examination was held on 13 November 2011 and the result was declared on 25 November 2011. The case of the appellants is that persons whose result of the teacher training course has not been declared by 25 November 2011 were issued certificates and based on the certificates they were appointed. According to them the result of the teacher training course was declared in March 2012.”

A

B

C

D

E

F

G

H

- A 7.4 The impugned common judgment and order passed by the Division Bench of the High Court is the subject matter of the present appeals.
8. We have heard the learned Senior Counsel for the respective parties at length.
- B 8.1 The issue involved in the present appeals is the meaning and interpretation of the word “pursuing” as appearing in Clause 5(ii) of the NCTE guidelines. The question for consideration is the eligibility criteria to appear in the TET examination. It is apparent from the reading of the guidelines framed by the NCTE – para 5 that the incumbents who have
- C acquired the qualification academic as well as professional can apply for TET examination. The second category of candidates who can apply for TET examination is those who are “pursuing” any teacher training course (TTC). The meaning of “pursuing” is a person who is undergoing any of the teacher training course (TTC). He/she must have been admitted and pursuing the teacher training course which is prescribed as a qualification. Declaration of the result, appearing in the examination or date of filling up of the forms, etc. cannot be the criteria to appear in the TET examination. Therefore, a candidate who is undergoing i.e., “pursuing” the requisite teacher training course (TTC) shall be eligible to appear in the TET examination.
- E 8.2. The learned Single Judge of the High Court held and concluded that “only those persons who are in the final year of the teacher training course (TTC) alone would be entitled to appear in the TET examination”. The Division Bench of the High Court has gone further and has observed that “only such candidates, whose teacher training course result has not
- F been declared by the last date specified for filling up the online form for TET examination can be said to be “pursuing” the teacher training course as mentioned in clause 5(ii) of the NCTE guidelines and could appear in the TET examination. Therefore, according to the Division Bench of the High Court, as on the last date specified for filling up the online form for TET examination, the candidates must have appeared in the examination (of TTC) and the result has not been declared. These riders are not proper given the clear language used in clause 5(ii) of the NCTE guidelines. The Division Bench of the High Court has read into and/or added something more than what is provided in clause 5(ii) of the NCTE guidelines. The language used in clause 5 (ii) of the NCTE guidelines is
- H

simple, clear and unambiguous. As per the cardinal principle of the rule of interpretation, while construing a particular provision, the particular provision is required to be read as it is and nothing is to be added or taken away.

8.3 Looking to the clear wordings in clause 5(ii) of the NCTE guidelines and the phrase used is “pursuing”, the High Court is not justified in adding the additional riders, such as, that to become eligible for appearing in the TET examination, a candidate must have appeared in the TTC examination and the result have not been declared by the last date specified for filling up the online form for TET examination. As per the dictionary meaning, the word “pursuing” means undergoing and/or proceeding further. Therefore, a candidate who has been admitted in any of the TTC and undergoing the teacher training course (TTC) can be said to be “pursuing” such teacher training course and shall be eligible to appear in the TET examination, irrespective of the fact that whether, by the last date specified for filling up the online form for TET examination, he has, in fact, appeared in the examination of the concerned teacher training course and the result is awaited. “Pursuing” the requisite teacher training course is sufficient to make such a candidate eligible to appear in the TET examination. Therefore, on a fair reading of clause 5(ii) of the NCTE guidelines, a person who has been admitted in TTC and is pursuing, he/she can appear in the TET examination. In the present case, admittedly, on the cut-off date, all the candidates were pursuing the concerned teacher training course. Thereafter, all of them have cleared the TET examination as well as have cleared the concerned teacher training course. At the time when they were appointed as Assistant Teachers, all of them fulfilled the eligibility criteria for appointment as Assistant Teachers. All of them have passed the TET examination and have also passed the TTC as per the requisite eligibility criteria. Thus, in our view, ousting certain incumbents by the High Court cannot be sustained since they were pursuing TTC and they were clearly eligible to appear in the TET examination and have passed it while pursuing the requisite professional qualification for being eligible to be appointed as Assistant Teachers.

8.4 It is not permissible to add riders as done by the High Court. The phrase “pursuing” is to be given literal meaning. The expression ‘rule of literal construction’ lays down that words of a statute are first

A

B

C

D

E

F

G

H

A understood in their natural, ordinary or popular sense and phrases, and sentences are construed according to their grammatical meaning. The learned author G.P. Singh in '*Principles of Statutory Interpretation*' (14th end.) at p. 91, has observed:

B "... Natural and grammatical meaning.—The words of a statute are first understood in their natural, ordinary or popular sense and phrases and sentences are construed according to their grammatical meaning, unless that leads to some absurdity or unless there is something in the context, or in the object of the statute to suggest the contrary. "The true way", according to Lord Brougham [*Crawford v. Spooner*, 1846 SCC Online PC 7] is,

C 'to take the words as the legislature have given them, and to take the meaning which the words given naturally imply, unless where the construction of those words is, either by the Preamble or by the context of the words in question, controlled or altered;: [*Crawford case* (*supra*)]

D and in the words of Viscount Haldane [*Attorney General v. Milne*, 1914 AC 765 (HL)], L.C. if the language used "has a natural meaning we cannot depart from that meaning unless reading the statute as a whole, the context directs us to do so. In an oft-quoted passage, Lord Wensleydale stated [*Grey v. Pearson*, (1857) 6 HL Cas 61] the rule thus:

F '... in construing wills and indeed statutes, and all written instruments, the grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified, so as to avoid that absurdity, and inconsistency, but no further.'"

G Therefore, it is clear that the respective appellants herein whose appointments were challenged were eligible to appear in the TET examination at the time they were "pursuing" the concerned TTC. Thus, we hold that the decision of the High Court, to the aforesaid extent, is not sustainable. The impugned orders of the High Court are accordingly modified to the aforesaid extent.

H

9. Now so far as the submission on behalf of some of the appellants herein – original writ petitioners with regard to persons who have passed Graduation without Science or Mathematics as one of the subjects is concerned, the concerned District Education Officers are directed to carry out the exercise to find out such candidates who are Graduate and have been appointed as Assistant Teachers without having Science or Mathematics as one of the subjects, within a period of three months from today. Let the exercise be completed duly considering the second proviso to Section 23 added by the Right of Children to Free and Compulsory Education Act, 2017.

A

B

10. The present appeals are allowed accordingly. No costs.

C

Devika Gujral

Appeals allowed.