



2025:CGHC:6548-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3309 of 2024

- 1** - Ashokanand Patel S/o Ruplal Patel Aged About 29 Years R/o Village Ramtek, Post Kanakbira, Tahsil Sarangarh, District Sarangarh-Bilaigarh Chhattisgarh.
- 2** - Parmanand Sahu S/o Lt. Manasdas Sahu Aged About 32 Years R/o Village And Post Surdangar Tahsil Dondi, District Balod Chhattisgarh.
- 3** - Khelan Ram Prajapati S/o Birbal Prajapati Aged About 34 Years R/o Village Dhanora, District Bilaspur Chhattisgarh.
- 4** - Miss Anchal Sahane D/o Chandan Aged About 29 Years R/o Village Ramkrishna Mission Ashram Ward Muriapara, Ward No. 10 Narayanpur, District Narayanpur Chhattisgarh.
- 5** - Mahendra Kumar Patel S/o Lalmani Patel Aged About 28 Years R/o Village Khairamuda, Dumarpali, District Janjgir Champa Chhattisgarh.
- 6** - Nishchal Chandrakar S/o Baldau Ram Chandrakar Aged About 29 Years R/o Village Imlibhatha, Ward No. 02, Mahasamund District Mahasamund Chhattisgarh.
- 7** - Pragati Patel S/o Kapleshwar Patel Aged About 28 Years R/o Village Kukrijharia, Tahsil Kharsia, District Raigarh Chhattisgarh.
- 8** - Divya Sahu D/o Deepnarayan Sahu Aged About 31 Years R/o Village Pairi, Ward No. 10, House No. 43/2, District Balod Chhattisgarh.

9 - Ravindra Kumar Rohan S/o Ramesh Rohani Aged About 30 Years R/o Village Jhagrakhand Nevsa, District Bilaspur Chhattisgarh.

10 - Madhuri Kaushik D/o Ram Kumar Kaushik Aged About 24 Years R/o Village And Post Bartori, Bilha, District Bilaspur Chhattisgarh.

11 - Madhu Yadav D/o Nilu Yadav Aged About 30 Years R/o Village Sirgitti, Ward No. 15, District Bilaspur Chhattisgarh.

12 - Shambhu Kushwaha S/o Balmukund Kushwaha Aged About 33 Years R/o Village Sitapur, Tahsilpara Shivmandir, District Surguja Chhattisgarh.

13 - Pratiksha Tamrakar S/o Rajendra Tamrakar Aged About 32 Years R/o Village Dongargarh, Ward No. 21, District Rajnandgaon Chhattisgarh.

14 - Bharat Kumar Sahu S/o Suresh Kumar Sahu Aged About 32 Years R/o Village Nagri Ward No. 15, District Dhamtari Chhattisgarh.

15 - Ashwani Kumar Yadav S/o Reva Ram Yadav Aged About 36 Years R/o Village Bhawarmara, P.O. Singhola, District Rajnandgaon Chhattisgarh.

16 - Akansha Sonwani D/o Virendra Sonwani Aged About 33 Years R/o Village Ward No. 16, Risai Para, Dhamtari District Dhamtari Chhattisgarh.

17 - Upendra Kumar Nayak S/o Jagat Ram Nayak Aged About 33 Years R/o Village Dhumabhatha, Ward No. 10, District Raigarh Chhattisgarh.

18 - Lobhan Kumar S/o Govind Ram Aged About 34 Years R/o Village Narayanpur, Sonpur Road, Aashram Ward 11, District Narayanpur Chhattisgarh.

19 - Haldhar S/o Suresh Aged About 28 Years R/o Village Mohgaon, Sonpurpara, District Kawardha Chhattisgarh.

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through Secretary, Department Of School Education, Mahanadi Bhawan, Mantralaya Atal Nagar, New Raipur, District Raipur (C.G.)

2 - Director Directorate Of Chhattisgarh Public Instruction Indravati Bhawan, New Raipur, District Raipur Chhattisgarh.

3 - National Council Of Teacher Education Through Secretary, G-7, Dwarka Near Metro Station New Delhi 110075

... Respondent(s)

(Cause title taken from Case Information System)

For Petitioners	:	Mr. Ajay Shrivastava, Advocate
For Respondents/State	:	Mr. Yashwant Singh Thakur, Addl. A.G.
For Respondent No.3	:	Mr. Bhaskar Payashi, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, C.J.

05/02/2025

1. The petitioners have filed the instant petition challenging the notification dated 05.03.2019, issued by the State Government with respect to the note appended thereto in Annexure-1, whereby the required qualification for the post of Teachers (Agriculture/Music/Tabla) is made not necessary. The present petitioners are aggrieved with respect to the Entry No. 8 of the subjects given in the Annexure-1, which is the Agriculture subject, and therefore, the petition and the relief claimed in the petition is restricted only to the subject of

Agriculture. The petitioners have claimed the following reliefs in their writ petition :

“(i) That, this Hon’ble Court may kindly be pleased to held the note regarding exclusion of B.Ed. for Teacher Agriculture in the Annexure-1 as ultra-vires, in the interest of justice.

(ii) Any other relief which may be suitable in the facts and circumstances of the case, may also be granted.”

2. The subject matter, in brief, is that the petitioners are graduate in agricultural science and having B.Ed./D.El.Ed. qualification with TET. The State Government has notified the **Chhattisgarh School Education Service (Education and Administrative Cadre) Recruitment and Promotion Rules, 2019** (in short ‘Rules of 2019’). In the said rules, the minimum qualification was fixed for appointment on the post of Assistant Teacher and Teacher in various subjects, which has been given in Annexure-1 of the Rules of 2019. As per Annexure-1 of Rules of 2019, for the post of Teacher, the B.Ed. degree is compulsory requirement, but for the Teacher (Agriculture), the requirement of B.Ed. degree is excluded as per the note appended in Annexure-1 of the Rules of 2019. It is further appended in the said note that those Teachers would be appointed in Higher Secondary Schools. As per the instructions issued by National Council of Teacher Education (in short ‘NCTE’) dated 12.11.2017, for becoming a Teacher of Middle/High School (class 9th and 10th), the candidate should possess B.Ed. degree and it has been mentioned in the notification that if any relaxation is required, then the State Government will send the proposal to the NCTE and then the NCTE will take the final decision regarding relaxation to be given or not. By

the said rules of 2019 and Annexure-1, the untrained Teacher of having graduation in Agricultural Science will be selected and the trained Teacher having B.Ed. qualification may be deprived from selection, which is unconstitutional, arbitrary and discriminatory and further it amounts to the teaching by an untrained teacher. Considering the above facts, the NCTE has fixed the requirement of B.Ed. qualification, therefore, the validity of the impugned part of the notification dated 05.03.2019 is challenged by the petitioners.

3. Learned counsel for the petitioners would submit that for the post of Teacher, the B.Ed. degree is compulsory, but for Teacher (Agriculture), the B.Ed. degree is not the necessary requirement and the same is excluded by a note appended in Annexure-1 of Rules of 2019. As per the notification of NCTE Instruction dated 12.11.2017, for the Teacher of Middle/High School, B.Ed. degree is compulsory and if the State Government wants to relax the requirement of B.Ed. degree for any subject, he should send the proposal to the NCTE and then NCTE will take decision on the same, but the State Government on its own cannot take a decision to delete the necessary requirement of the B.Ed. degree. The petitioners are graduate in Agricultural Science having B.Ed./D.El.Ed. qualification with TET. He would further submit that in a similar matter in the State of Uttar Pradesh, the State Government have relaxed the requisite qualification of B.Ed. from Arts subject, but the High Court of Uttarakhand have struck down the said notification of the State of Uttarakhand, in the matter of **Pushpa v. State of Uttarakhand and others**, judgement dated 15.05.2023, passed in Special Appeal No.

78 of 2022 and a batch of other connected matters and the same has been upheld by the Hon'ble Supreme Court, in Special Leave to Appeal (C) No. 19348-19349/2023 (**Suman Lal and others v. State of Uttarakhand and others**) vide order dated 18.09.2023.

He would also submit that in the similar situation arises in the State of Madhya Pradesh and Rajasthan also and the government has advertised the post of Teachers (Agriculture), in which B.Ed. degree is made compulsory. Therefore, the relaxation part of the Annexure-1 of Rules of 2019 may be held to be ultra-vires and be struck down.

4. On the other hand, learned counsel for the State opposes and have submitted that in the State of Chhattisgarh, there are limited number of schools, where subject of agriculture was being taught and as a result of the same only few posts were sanctioned for agriculture, teacher. At that point of time, the teachers, who were graduate in agriculture subject were appointed for imparting the subject of agriculture in Higher Secondary Schools. Therefore, in Annexure-1 of the Rules of 2019, for Teachers (Agriculture) the necessary requirement of B.Ed degree is excluded. However, he does not dispute that the State is under obligation to follow the instructions issued by the Central Government in the form of NCTE and the government will certainly take measures to do the same as and when eventuality arises.
5. We have heard learned counsel for the parties and perused the document annexed by the parties in the petition.

6. The core question, arises for consideration in the present case is, as to whether the State Government is under obligation to act as per the notification dated 12.11.2014 issued by the NCTE under Section 32, sub-section 2 clause (dd) read with Section 12-A of the National Council for Teacher Education Act, 1993 (in short 'the Act of 1993') or the State Government may frame rules contrary to the notification issued by the NCTE, prescribing minimum educational qualification for recruitment of teachers in the school.
7. The identical issue came up for consideration before this Court in WPS No. 2358 of 2024 (**Shravan Kumar Pradhan and others v. Union of India and others**) which has been decided by this Court by order dated 26.07.2024, in which it has been held by this Court that the essential qualification prescribed under the regulation of 2014 framed by NCTE would prevail over the Rules of 2019. In Para 36 of the order passed in **Shravan Kumar Pradhan's** case (supra), this Court has held that:

“36. The Hon’ble Supreme Court in Yogesh Kumar v. Government of NCTE, Delhi, (2003) 3 SCC 548 held that though B.Ed is a well recognized qualification in the field of teaching, yet it is a training which equips a candidate to teach higher classes, not classes of primary level. The NCTE Act 1993 and NCTE Regulations of 2014 are in binding nature to the State while framing the Rules and it should not be inconsistent between two legislature and the State ought to have framed and fixed the minimum qualification in consonance with the regulations of the NCTE. The NCTE Act of 1993 and Regulations 2014 will prevail over the State rules of 2019 as provided under Article 254 of the constitution of India.”

8. The similar situation was also arises in the State of Uttarakhand, whereby by way of a notification dated 25.02.2021, the State of Uttarakhand had changed the eligibility criteria for recruitment on the post of teachers and the necessary qualification of B.Ed was omitted. When the matter came up for consideration before the Uttarakhand High Court in Special Appeal No. 78 of 2022 (Pushpa v. State of Uttarakhand and others) and other batch of matters, vide order dated 15.05.2023, the Uttarakhand High Court struck down the said part of the notification dated 25.02.2021 by holding that:

“29. The core question which falls for consideration in the instant matter has already been answered by the Hon'ble Supreme Court in the case of State of Uttar Pradesh and others Vs. Shiv Kumar Pathak and others, (2018) 12 SCC 595, wherein the Hon'ble Supreme Court held that the qualifications prescribed by the NCTE are binding. In para 17 of the judgment, the Hon'ble Supreme Court observed as hereunder:-

"17. There is no manner of doubt that NCTE, acting, as an "academic authority" under Section 23 of the RTE Act, under the Notification dated 31-3-2010 issued by the Central Government as well as under Sections 12 and 12-A of the NCTE Act, was competent to issue Notifications dated 23-8-2010 and 11-2-2011. The State Government was under obligation to act as per the said notifications and not to give effect to any contrary rule..... ”

30. In the instant case, after promulgation of 2014 Regulations, the State of Uttarakhand had amended the State Service Rules, 2014 on 23.12.2019. Uptil that stage, the State had acted as per statutory mandate. The minimum qualifications for a Teacher were prescribed as per the NCTE notifications. But thereafter, the amendments which were made on 25.02.2021 are in contravention to the minimum

educational qualifications prescribed by the NCTE Regulations, 2014. Therefore, this amendment is illegal and it deserves to be struck down.

32. In view of the foregoing discussions, this Court is of the view that the Amendments which were made on 25.02.2021, in the State Service Rules, 2014 are liable to be struck down being in contravention to the minimum educational qualifications prescribed by the NCTE Regulations, 2014. Accordingly, Special Appeals and the writ petitions deserve to be allowed.

34. The amendments carried out on 25.02.2021 in the State Service Rules, 2014 are struck down being in contravention to the minimum educational qualifications prescribed by the NCTE Regulations, 2014.”

9. The petitioners Suman Lal and other in Special Appeal No. 105/2022, which was one of the petitions tagged and decided with Special Appeal No. 78/2022 (Pushpa v. State of Uttarakhand and others) have challenged the order dated 15.05.2023 before the Hon'ble Supreme Court by filing the SLP(C) No. 19348-19349/2023, (**Suman Lal and others v. State of Uttarakhand and others**), which was came up for hearing on 18.09.2023 and after hearing the parties, the SLP(C) has been disposed off and the order passed by Uttarakhand High Court was affirmed. The similar matter of Agriculture subject was also came up for consideration before the Rajasthan High Court in the matter of **Dinesh Jakhar and others v. State of Rajasthan and others**) and connected batch of petitions, in S.B. Civil Writ No. 7496 of 2018, decided on 24.01.2019 and in the Madhya Pradesh High Court, in the matter of the **Professional Examination Board v. Vikas Raghuvanshi and others**, Writ Appeal No. 1342 of 2018 and other connected matter, decided on 28.09.2018, have taken a similar

view that the essential eligibility criteria fixed by the NCTE should prevail over the criteria fixed by the State Government.

10. The National Council for Teacher Education Act, 1993 has been enacted by the Parliament to achieve planned and coordinated development of the teacher education system throughout the country and the Act of 1993 has been amended time to time, and in the year 2012, the clause (c) and (d) of sub-section 4 of section 1 of the Act of 1993 has been amended as; (c) Schools imparting pre-primary, primary, upper primary, secondary or senior secondary education and colleges providing senior secondary or intermediate education irrespective of the fact, by whatever names they may be called; and (d) Teachers for schools and colleges referred to in clause (c). The school has been defined in sub-clause (a) of section 3 of the Act of 1993, which provides that the school means any recognised school imparting pre-primary, primary, upper primary, secondary or senior secondary education and colleges providing senior secondary or intermediate education and includes a school established from owned and controlled by the Central Government or the State Government or a local authority. Section 12 of the Act of 1993 provides for functions of the council which empowers to the duty of the council to take all such steps as it may think fit for ensuring planned and coordinated development of teacher education and section 12(d) lay down the guidelines in respect of minimum qualifications for a person to be employed as a teacher in recognised institutions.

11. Section 12-A of the Act of 1993 has been inserted by the amendment with effect from 01.06.2012, which empowers the council to determine minimum standards of education of school teachers, which is as under:

[12A. Power of Council to determine minimum standards of education of school teachers.- For the purpose of maintaining standards of education in schools, the Council may, the qualifications of persons for being recruited as by regulations, determine teachers in any pre-primary, primary, upper primary, secondary, senior secondary or intermediate school or college, by whatever name called, established, run, aided or recognised by the Central Government or a State Government or a local or other authority:

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

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

12. Section 32 of the Act of 1993 gives power to the council to make regulations, which will not be inconsistent with the provisions of the Act of 1993. Section 32 of the Act of 1993 reads as under:

"32. Power to make regulations. (1) The Council may, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, generally to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

(a) the time and the place of the meetings of the Council and the procedure for conducting business thereat under sub-section (1) of section 7;

(b) the manner in which and the purposes for which persons may be co-opted by the Council under sub-section (i) of section 9;

(c) the appointment and terms and conditions of service of officers and other employees of the Council under sub-sections (1) and (2) respectively of section 10,

(d) the norms, guidelines and standards in respect of-

(i) the minimum qualifications for a person to be employed as a teacher under clause (d) of section 12;

(ii) the specified category of courses or training in teacher education under clause (e) of section 12;

(iii) starting of new courses or training in recognised institutions under clause (1) of section 12;

(iv) standards in respect of examinations leading 10 teacher education qualifications referred to in clause (g) of section 12:

(v) the tuition fees and other fees chargeable by institutions under clause (h) of section 12:

(vi) the schemes for various levels of teacher education, and identification of institutions for offering teacher development programmes under clause (1) of section 12:

(dd) the qualifications of teachers under section 12A:]

13. The council by exercising the powers conferred under section 12-A and section 32 of the Act of 1993 frames the regulation for determination of the minimum qualification for the teachers in the aforesaid schools by whatever name called, established, run, added or recognised by the Central Government or the State Government or of a local authority. The regulations is framed in the name of "The National Council for Teachers Education (Determination of minimum qualification for persons to be recruited as education teachers and physical education teachers in pre-primary, primary, upper primary, secondary, senior secondary or intermediate schools or colleges) Regulations 2014.
14. The regulation 4 of the Regulations 2014 provides for fixation of minimum qualification for direct recruitment as well as for the promotion. The clause (b) of regulation 4 of the Regulations 2014 provides the minimum qualification for promotion of the teachers. The minimum qualifications for promotion of the teachers specified in the first and second schedules, which are applicable for one level to the next level and the relevant part of the first schedule is as under:

First Schedule

(See Sub-regulation (2) of Regulation (4))

The National Council for Teacher Education (Determination of Minimum Qualifications for Persons to be recruited as Education Teachers in Pre-Primary, Primary, Upper Primary, Secondary, Senior Secondary or Intermediate Schools or Colleges) Regulations, 2014.

Level	Minimum Academic and Professional Qualifications
<p>4. Secondary/High School (For Classes IX-X)</p>	<p>(a) Graduate /Post Graduate from recognized University with at least 50% marks in either Graduation or Post Graduation (or its equivalent) and Bachelor of Education (B.Ed.) from National Council for Teacher Education recognized institution.</p> <p align="center">or</p> <p>(b) Graduate/ Post Graduate from recognized University with at least 45% marks in either Graduation or Post Graduation (or its equivalent) and Bachelor of Education (B.Ed.) from National Council for Teacher Education recognized institution (in accordance with the National Council for Teacher Education (From of application for recognition, the time limit of submission of application, determination of norms and standards for re recognition of teacher education programmes and permission to start new course or training) Regulation, 2002 notified on 13.11.2002 and National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2007 notified on 10.12.2007)</p> <p align="center">or</p> <p>(c) 4- years degree of B.A.Ed./ B.Sc. Ed. from any National Council for Teacher Education recognized institution.</p>
<p>5. Senior Secondary/ Intermediate (For Classes XI-XII)</p>	<p>(a) Post Graduate with at least 50% marks (or its equivalent) from recognized University and Bachelor of Education (B.Ed.) from National Council for Teacher Education recognized institution.</p> <p align="center">or</p> <p>(b) Post Graduate with at least 45% marks (or its equivalent) from recognized University and Bachelor of Education (B.Ed.) from National Council for Teacher Education recognized institution (in accordance with the</p>

	<p>National Council for Teacher Education (From of application for recognition, the time limit of submission of application, determination of norms and standards for re recognition of teacher education programmes and permission to start new course or training) Regulation, 2002 notified on 13.11.2002 and National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2007 notified on 10.12.2007)</p> <p style="text-align: center;">or</p> <p>(c) Post Graduate with at least 50% marks (or its equivalent) from recognized University and B.A..Ed./B.Sc.Ed. from any NCTE recognized institution.</p>
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15. From bare perusal of the aforesaid provisions, it is very clear that the minimum qualification for the post of Level 4 and 5 is graduate/post graduate from recognized university with at least 50% marks in either graduation or post graduation (or its equivalent) and B.Ed from National Council of Teacher Education recognized institution. In the year 2021, the NCTE has amended its Regulation 2014 partially and now the requirement of 50% marks in either graduation or post graduation has been enhanced to 55%, but the State has not made any amendment in its rules. The minimum qualification for the post of Level 4 and 5, the B.Ed is mandatory and one of the minimum qualification, which cannot be relaxed by the State Government while giving promotion.
16. The State Government, in exercise of powers conferred by the proviso to Article 309 of the Constitution of India, has made the Chhattisgarh School Education Service (Educational and Administrative Cadre) Recruitment and Promotion Rules, 2019, which came into force from 05.03.2019. The Annexure-1 appended

to the Rules of 2019, which prescribes the minimum qualification for the Assistant Teachers and Teachers. For the Teachers, as per Annexure-1 of the Rules of 2019, the following qualifications are necessary:

(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.

17. The subjects of bachelor's degree has also been provided in the form of a list and the Entry No. 8 of the said list provided with Agriculture subject. Immediately below the said list of the subjects, a note has been appended, by which the requirement of B.Ed., D.Ed. and T.E.T. is exempted, which is as under :

“Note:- The teachers of the subject mentioned in serial numbers 8 to 10 shall be appointed in higher secondary schools, for them B.Ed./D.Ed. and TET qualification will not be necessary.

18. In the notification dated 12.11.2014 issued by the NCTE, the minimum qualification for recruitment on the post of teachers in secondary, senior secondary or intermediate schools, the following have been prescribed, which has been mentioned in the preceding para.
19. Clause 5 of the said notification provides the power to relax, and according to which, the State Government is required to send a reference to the NCTE, warranting relaxation in the provisions of the said notification/regulation, which is as under :

“5. Power to relax

Where the Council is satisfied on receipt of reference from the concerned State Government that special circumstances exist warranting relaxation of some of the provisions of the Regulations, it may grant relaxation of that provision to such extent, for such time period and subject to such conditions and limitations as it may consider necessary, in a just and equitable manner,

Provided, that no relaxation, shall be granted under these Regulations with regard to the minimum qualifications for appointment of teachers for Level 3 (Class I to VIII) as specified in the First Schedule.”

20. When the minimum qualification for the post of Teacher in secondary/ high school for class 9th and 10th and senior secondary/intermediate for class 11th and 12th, when the B.Ed. degree is the necessary qualification, the State Government cannot relax the requirement of such qualification on its own without there being approval or relaxation granted by the NCTE.

21. In the matter of **Devesh Sharma v. Union of India**, 2023 SCC Online SC 985, the Hon'ble Supreme Court has held in Para 38 to 45 that :

“38. It is therefore clear that a B.Ed. course is not designed for teaching at primary level.

39. Moreover, the inclusion of B.Ed. candidates for primary classes is in the teeth of several decisions of this Court, as this Court has consistently held that Diploma in elementary education (D.El.Ed.) and not B.Ed., is the proper qualification in Primary Schools.

40. In Dilip Kumar Ghosh v. Chairman, this Court had to decide on the question whether B.Ed degree candidate can be equated with a candidate who holds training in Primary School teaching or in other words who is trained specifically for Primary Schools. The Contention of the appellants (in the aforesaid case) who were B.Ed. candidates was that, their course (B.Ed.), equips them to teach Primary Classes. Their contention was rejected by this Court. In Para 9, it stated as under:

"In B.Ed. curriculum such subjects like child psychology are not found. On the other hand, the curriculum is of a generic nature and deals with subjects like the principle of educational-curriculum studies, educational psychology, development of education in modern India, social organization and instructional methods, etc."

41. Then again in Para 10 it was stated as under:

...For teaching in the primary school, therefore, one must know the child psychology and development of a child at a tender age. As already noticed, the candidates like the appellants who are trained in B.Ed. degree are not necessarily to be equipped to teach the students of primary class. They are not trained

and equipped to understand the psychology of a child of tender age."

42. In *P.M. Latha v. State of Kerala*¹³ the argument that B.Ed. qualification is a higher qualification than Diploma in Elementary Education (D.El.Ed.) was rejected. Again, it was a case before the Apex Court where B.Ed candidates, were claiming appointment as Primary School teachers on the basis of the claim that their educational qualification (i.e. B.Ed.) was even higher than the Diploma in Elementary Education (D.El.Ed.) which was held by the other candidates. In para 10 of the said case, it was stated as under:

"We find absolutely no force in the argument advanced by the respondents that B.Ed. qualification is a higher qualification than TTC and therefore, the B.Ed. candidates should be held to be eligible to compete for the post....."

43. These findings were reiterated by Supreme Court in *Yogesh Kumar v. Government of NCT, Delhi*, holding that though B.Ed. is a well-recognized qualification in the field of teaching, yet it is a training which equips a candidate to teach higher classes, not classes at primary level.

44. B.Ed. is not a qualification for teachers at Primary level of schooling. The pedagogical skills and training required from a teacher at Primary level is not expected from a B.Ed. trained teacher. They are trained to teach classes at higher level, post primary, secondary and above. For Primary level i.e. class I to class V the training is D.El.Ed or what is known as diploma in elementary education. It is a D.El.Ed. training course which is designed and structured to impart skills in a teacher who is to teach Primary level of students.

45. Therefore, by implication the inclusion of B.Ed. as a qualification amounts to lowering down of the 'quality' of education at Primary level. 'Quality' of education which was such an important component

of the entire elementary education movement in this country, which we have discussed in the preceding paragraphs of this order.”

22. In the matter of **A.P.J. Abdul Kalam Technological University and another v. Jai Bharat College of Management and Engineering Technology and others**, (2021) 2 SCC 564, it has been held by the Hon'ble Supreme Court that the State can make the qualification or provide bench mark by providing additional qualification to the minimum eligibility criteria, but it cannot dilute the norms provided by the NCTE. The Hon'ble Supreme Court has held that from the aforesaid provisions of law, the minimum qualification fixed by the NCTE is quite vivid that the qualification of B.Ed. degree is an essential qualification for the post of Teacher, who deals mainly education in High Schools and Higher Secondary Schools and thus the qualification of B.Ed. degree is an essential qualification for the post of Teacher and the same cannot be diluted by the State Government.
23. In view of by the above discussions, the impugned provisions of the Rules of 2019 and also in view of the law laid down by the Hon'ble Supreme Court as well as the various High Courts, the impugned part of the notification dated 05.03.2019 issued by the State Government of Chhattisgarh by the Rules of 2019, exempting the necessary qualification of B.Ed./D.Ed./T.E.T. for the Teachers of Agriculture subject appended in column No.8 of Annexure-1 of Rules of 2019 is hereby declared as unconstitutional and ultra vires and declared that the candidates, who possessed the B.Ed. degree are

eligible for appointment on the post of Teacher (Agriculture) as per the regulations 2014 framed by the NCTE.

24. The State Government of Chhattisgarh is directed to include the requisite qualification of B.Ed. for appointment on the post of Teacher (Agriculture) and to proceed in accordance with the provisions of regulations of 2014.
25. The writ petition is **allowed** to the extent indicated hereinabove. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

ved

Head Note

The minimum qualification of B.Ed fixed by the NCTE under the **National Council for Teacher Education (Determination of Minimum Qualification for Persons to be recruited as an Education Teacher and Physical Education Teacher in Pre-primary, Primary, Upper primary, Secondary, Senior secondary or Intermediate schools or Colleges) Regulations, 2014** for recruitment of Teacher (Agriculture) in Higher Secondary Schools, is prevailing over the **Chhattisgarh School Education Service (Educational and Administrative Cadre) Rules, 2019** and the State Government cannot dilute the said requisite qualification of B.Ed for recruitment on the said post.