

Court No. - 6**Case :-** WRIT - A No. - 16401 of 2024**Petitioner :-** Surya Pratap Singh**Respondent :-** State Of U.P. And 7 Others**Counsel for Petitioner :-** Satyendra Chandra Tripathi**Counsel for Respondent :-** C.S.C.,Jitendra Ojha,Rama
Nand Pandey**Hon'ble Ajay Bhanot,J.**

The judgement is being structured in the following conceptual framework to facilitate the discussion:

A.	Introduction						
B.	Submissions						
C.	Facts						
D.	Issues arising for determination						
E.	Right to Education and Consequences of allocation of election duties to teachers: Case Laws						
F.	Election Guidelines dated 04.10.2022 <table border="1" data-bbox="511 1723 1419 1938"><tr><td>a.</td><td>Election Commission Guideline No. 1.2 Categories of employees who can be appointed as Booth Level Officers</td></tr></table>	a.	Election Commission Guideline No. 1.2 Categories of employees who can be appointed as Booth Level Officers				
a.	Election Commission Guideline No. 1.2 Categories of employees who can be appointed as Booth Level Officers						
G.	Election Commission Guideline No. 1.5d dated 04.10.2022 <table border="1" data-bbox="511 2104 1419 2443"><tr><td>a.</td><td>Importance of Education</td></tr><tr><td>b.</td><td>Role of teachers</td></tr><tr><td>c.</td><td>Teaching : Need of leisure time for teachers and impact of productively spent holidays/ free time on teaching</td></tr></table>	a.	Importance of Education	b.	Role of teachers	c.	Teaching : Need of leisure time for teachers and impact of productively spent holidays/ free time on teaching
a.	Importance of Education						
b.	Role of teachers						
c.	Teaching : Need of leisure time for teachers and impact of productively spent holidays/ free time on teaching						

		d.	Election Guideline No. 1.5d Minimal Appointment of Teachers: Interpretations and Conclusion
H.	Final Directions		

A. Introduction

By the impugned order dated 16.08.2024 the petitioner has been directed to discharge election duties as a Booth Level Officer.

B. Submissions of learned counsels

Learned counsel for the petitioner Shri Satyendra Chandra Tripathi has made the following contentions:-

- i) The election duties which are assigned to the petitioner will interfere in the functioning of the petitioner as an Assistant Teacher.
- ii) The work of a Booth Level Officer is of a continuous nature and there will be no let up in the election duties.
- iii) The appointment of the petitioner on election duties is in the teeth of Right to Education Act, 2009 and the judgment rendered by this Court in **Sunita Sharma Advocate High Court and Another Vs. State of U.P. and others¹**.
- iv) Deployment of the petitioner on election duties is contrary to the provisions of Right to Education Act, 2009 and will interfere with his teaching work.

¹ PIL No. 11028 of 2015 decided on 25.03.2015

v) The aforesaid appointment is also de hors the relevant Election Commission Guidelines for appointment of teachers on election duties.

Learned Standing Counsel and Shri Jitendra Ojha, learned counsel for the Election Commission of India contend that:-

i) The appointment of the petitioner as Booth Level Officer is in consonance with the Right to Education Act, 2009 and the Election Commission Rules in that regard. The election duties which are allocated to the petitioner will not impact his teaching duties.

ii) Reliance was placed on the judgment rendered by this Court in **Nirbhay Singh and others vs. State of U.P. and others²**.

Heard learned counsels for the parties.

C. Facts

Admitted facts which are relevant for the adjudication of the controversy are these:

The petitioner is an Assistant Teacher in a primary school. The petitioner has been appointed as a Booth Level Officer by the order dated 16.08.2024, and has been allocated election related duties like revision of electoral rolls of the voters for the State Legislative Assembly Elections. The duties so allocated do not appear to be an episodic engagement. The said election duties envisage a long drawn if not a perennial commitment.

² Writ A No. 26204 of 2021 decided on 11.08.2022

D. Issues arising for determination:

The issue that arises for consideration in the facts and circumstances of this case and other companion writ petitions is the scope of applicable election guidelines holding field and the manner of their implementation.

E. Right to Education and Consequences of allocation of election duties to teachers: Case Laws

The issue of deployment of teachers for election duties was examined by constitutional courts on many occasions.

The apparent incompatibility between the fundamental right of education vested in children, and the paramount importance of electoral process in a democratic country resulting from assignment of election duties to teachers arose for consideration before the Supreme Court in **Election Commission of India vs. St. Mary's School**³. Reconciling the apparently divergent demands **St. Mary's School(supra)** set forth the law in the following terms:

"27. The provisions of the 1950 and 1951 Acts although were enacted in terms of Article 324 of the Constitution of India, the same must be given restricted meaning. Holding of an election is no doubt of paramount importance. But for the said purpose the education of the children cannot be neglected. Therefore, it is necessary to maintain the balance between the two.

28. With an advent of technology requisitioning of a large number of people for carrying out the election may not be necessary. We may notice that the Election Commission has different roles to play. Preparation of an electoral rolls, revision of electoral rolls, when objections are filed, hearing the parties and determining the objections, enumeration of the voter list and to hold elections as and when due. The Election Commission and its officers, in our opinion, can formulate an effective scheme to see that the services of

³ AIR 2008 SC 655

a large number of teachers are not required. The State admittedly is not in a position to perform its sovereign function of imparting education. Such functions necessarily are required to be performed by the private actors. Those students who are in a position to get admission in the public schools presumably would also be in a position to appoint tutors whereas those students who are admitted to the Government schools ordinarily would be from the middle or lower middle class or poor families. The state of primary education in India is in deplorable condition. There admittedly is a heavy drop outs from the schools particular from amongst the girl schools. The question if right to exercise franchise whereupon the emphasis is laid by Mr. Venugopal is an important one, right to education is also no less important being a fundamental right.

29. The Human Rights Conventions have imposed a duty on the Contracting States to set up institutions of higher education which would lead to the conclusion that the citizens thereof should be afforded an effective right of access to them. In a democratic society, a right to education is indispensable in the interpretation of right to development as a human right. [See *Leyla Sahin v. Turkey*, decided by the European Court of Human Rights on 10th November, 2005]. Thus, right to development is also considered to be a basic human right.

30. It is probably with that end in view the counsel appearing for the Election Commission had also joined the other counsel appearing for the respondents, to suggest the court that the services of the teachers may not be requisitioned on the days on which the schools are open. Submission of Mr. Venugopal that such a contention had not been made by the learned counsel appearing on behalf of the Election Commission cannot be accepted.

31. We have, however, considered the matter at some details as the question in regard to the application of the constitutional right and in particular fundamental right cannot be thwarted only by reason of a concession made by a counsel.

32. We would, however, notice that the Election Commission before us also categorically stated that as far as possible teachers would be put on electoral roll revision works on holidays, non-teaching days and non-teaching hours; whereas non-teaching staff be put on duty any time. We, therefore, direct that all teaching staff shall be put on the duties of roll revisions and election works on holidays and non-teaching days. Teachers should not ordinarily be put on duty on teaching days and within teaching hours. Non-teaching staff, however, may be put on such duties on any day or at any time, if permissible in law."

This Court in **Uttar Pradeshiya Prathmik Shikshak Sangh And 3 Ors. vs. State Of U.P. And 7 Others**⁴ was confronted with the legality of orders directing teachers to perform various electoral duties as Booth Level Officers like

⁴ Public Interest Litigation (PIL) No. 36449 of 2016 decided on 08.08.2016

preparation, revision, maintenance and duplication electoral list.

The learned Division Bench of this Court in **Uttar Pradeshiya Prathmik Shikshak Sangh (supra)** after noticing **St. Mary's School (supra)** upheld the stand of the State to put teachers on electoral duties on non teaching days and during non teaching hours:

"Learned counsel for the respondents submit that they shall put the teaching staff on duty on non-teaching days and within non-teaching hours, as observed by the Supreme Court in the aforementioned paragraph. Their submission is recorded and accepted.

In view thereof, nothing further survives in the writ petition. The writ petition is disposed of."

In **Sunita Sharma (supra)** the validity of the directions of the Chief Secretary assigning the work of verification of card holding families for inclusion and exclusion under the National Food Security Act to primary school teachers was called in question.

The assignment of non educational duties to teachers and the possibility of violation of the Right to Education Act, 2009 and the transgression of the mandate of Article 21-A of the Constitution of India was determined in **Sunita Sharma (supra)**. **Sunita Sharma (supra)** examined the issues in the context of the value of education and duties of teachers in a society by holding:-

"The right of children to free and compulsory education between the age of six to fourteen has been statutorily recognized in Section 3(1) of the Right of Children to Free and Compulsory Education Act, 2009. This is in pursuance of the fundamental right conferred by Article 21-A of the Constitution of India. The Act provides in Chapter IV the responsibilities of schools and teachers. Section 27 specifically contains a prohibition on the

deployment of teachers for non-educational purposes. Under Section 27, no teacher shall be deployed for any non-educational purposes other than the decennial population census, disaster relief duties or duties relating to elections to the local authority, or to the State Legislatures or Parliament, as the case may be. In view of this statutory prohibition, it is clearly unlawful and ultra vires on the part of the State to requisition the services of teachers for carrying out the verification of eligible card holding families. The right to free and compulsory education for children below the age of 14 is a constitutionally protected entitlement which is statutorily recognized in the Act. The State is not powerless, if it requires hands for completing the work of verification by recruiting contract employees or making suitable alternate arrangements, but such arrangements cannot involve the deployment of teachers. The duties of teachers is simply to teach students. Their status cannot be reduced to that of a ministerial employee of the State. It is no answer to state, as the District Supply Officer has in the counter affidavit, that the teachers are called upon to do the work of verification as and when they are free from school duties. A teacher after the completion of the hours of work in a school is expected to spend time in preparing for the classes for the next day and to pursue his or her own process of enhancing knowledge and learning to impart education to the children. It requires no stretch of imagination to hold that burdening a teacher with duties, after school hours in carrying out ministerial duties, such as the verification of eligible families, would only detract from her ability and capacity to teach students. It is time for the State to realise, if it is serious about implementing the right to free and compulsory education for children between ages of six to fourteen in the State of Uttar Pradesh that teachers cannot be treated in such a casual and callous manner. The civility of a society is defined with reference to the value it places on education and the respect which it holds for its teachers. Those may be traditional values but fortunately, some values are eternal. The position of a teacher is a critical element in dispensing education which must be recognized, protected and observed. Such action which has been taken by an officer of the State is clearly in violation of the duty cast upon the State..... "

(emphasis supplied)

A learned Division Bench of this Court in **Sudhir Kumar Sharma Vs. State of U.P. and 2 others**⁵, considered the scope of Section 27 of the Right of Children to Free and Compulsory Education Act, 2009 in relation to election duties assigned to teachers but declined to apply the holding of this Court in **Sunita Sharma (supra)** to the facts of the said cases on the following rationale:

⁵ Writ A No. 34551 of 2015 decided on 09.06.2015

"In the light of the aforementioned judgment what we find that therein as the job in question, that has been so assigned to the teacher, was not falling within the scope and ambit of Section 27 of Right of Children to Free and Compulsory Education Act, 2009, this Court clearly proceeded to take view that the district administration shall not requisition the services of petitioner from primary school and junior high school for carrying out such duties without the authority of law. Section 27 in itself proceeds to mention that no teacher shall be deployed for any non-educational purposes other than the decennial population census, disaster relief duties or duties relating to elections to the local authority, or to the State Legislatures or Parliament, as the case may be.

Section 27 thus in itself proceeds to carve out an exception and permits deployment in connection with the duties pertaining to decennial population census, disaster relief duties or duties relating to elections to the local authority, or to the State Legislatures or Parliament, as the case may be. "

Thereafter invoking **St. Mary's School (supra)**, the learned Division Bench in **Sudhir Kumar Sharma (supra)** set forth the following proposition of law:-

"Once revision of electoral roll is also part and parcel of on-going election process and for revision of electoral roll Booth Level Officers have been asked to co-operate in the matter of revision of rolls, then to say that Article 21-A and Section 27 prohibits requisition of services of primary school as well as junior high school teaching staff for the said purpose, cannot be accepted in the facts of the case, but certainly at the said point of time, the directives issued by the Apex Court, in the case of St. Mary's Convent (Supra), will have to be kept in mind by the authorities concerned and care should be taken that normal functioning on teaching side is not at all impaired/interrupted. "

Electoral duties to be discharged by teachers was again tested in light of Right to Education Act, 2009 by a learned Division Bench of this Court in **Nirbhay Singh and others vs. State of U.P. and others**. In **Nirbhay Singh(supra)** the following questions were referred to the learned Division Bench:-

"(1) Whether the provisions of Section 27 of the Right of Children to Free and Compulsory Education Act, 2009 permit the deployment of teachers to do any kind of duties relating to elections before the issue of an election notification relating to a Local Body, a State Assembly or the Parliament under appropriate provisions of the law?

(2) Whether before or after the issue of notifications relating to elections to a Local Body, a State Assembly or the Parliament, can teachers be deployed to any kind of election-related work on teaching days or during teaching hours?"

10. The learned Division Bench in **Nirbhay Singh (supra)** answered the said questions thus:-

"ANSWERS TO QUESTIONS

29. Question No.1 is answered in positive holding that the teachers can be deployed for election duty even before issuance of the notification relating to election to a Local Body, a State Assembly or the Parliament which includes work for revision of electoral roll.

Question No.2 is answered in negative holding that the teachers cannot be deployed during teaching days or teaching hours but can be on non-teaching days and non-teaching hours.

30. While answering the questions referred to by the larger Bench, let the present writ petition be now placed before the Single Bench as per roster on August 29, 2022. "

The issue regarding conflict of election related work assigned to teachers and Section 27 of the Right of Children to Free and Compulsory Education Act, 2009 was posed for consideration before a Division Bench of the Bombay High Court in **Umakant Ramkrushan Mahure v. The State of Maharashtra and others⁶, Writ Petition No. 6718 of 2019**, decided on 18.02.2020.

The Bombay High Court in **Umakant Ramkrushan Mahure (supra)** considered various instructions issued by the Election Commission of India in light of **St. Mary's School (supra)** and held:-

"(i) The petitioners, who are Teachers, are covered by the provisions of section 27 of Right of Children to Free and Compulsory Education Act, 2009, can be called to perform election duty including updating of electoral rolls on holidays and in non-teaching hours.

(ii) If F.I.R. is lodged against any of the petitioners, for refusal to perform the duty during school hours, the same shall not be prosecuted. However, if

⁶ Writ Petition No. 6718 of 2019

the petitioners refuse to work in accordance with the instructions of Elections Commission of India, it shall be open for the respondents to continue with such actions."

Similarly a Division Bench of the Patna High Court in **Satyendra Kumar Sandilya v. The State of Bihar and others**⁷ reported at also opined that deployment of teachers on election related duties was not barred in law in view of **St. Mary's School (supra)**.

A learned Single Judge of the Rajasthan High Court in **Mahesh Swami and others v. The State of Rajasthan and others**⁸, also upheld appointment of teachers on electoral duties.

F. Election Guideline No. 1.2 dated 04.10.2022.

(a) Categories of employees who can be appointed as Booth Level Officers

The appointment of Booth Level Officers is governed and regulated by the Election Commission of India guidelines dated 04.10.2022.

Guideline No. 1.2 of the aforesaid guidelines contemplates appointment of various categories of Government servant/semi Government servant employees as Booth Level Officers. The said provision is extracted herein under:-

"1.2 Booth Level Officer can be appointed from the following suggested list of categories Government/Semi Government employees:

- (i) Teachers,
- (ii) Anganwadi workers,
- (iii) Patwari/Amin/Lekhpal,

⁷ 2018 (11) ADJ 393

⁸ Civil Writ Petition No. 17945 of 2021 decided on 16.03.2022

- (iv) Panchayat Secretary,
- (v) Village Level Workers,
- (vi) Electricity Bill Readers,
- (vii) Postman,
- (viii) Auxiliary Nurses & Mid-wives,
- (ix) Health workers,
- (x) Mid-day Meal workers,
- (xi) Contract teachers,
- (xii) Corporation Tax Collectors, and
- (xiii) Clerical Staff in Urban area (UDC/LDC etc.)"

G. Election Commission Guideline No. 1.5d dated 04.10.2022

(a) Importance of Education

The paramount place of education in our society as depicted in the Article 21-A of the Constitution of India fell for consideration before by this Court in **Smt. Rekha Vs. State of U.P.**⁹:-

"IV(C). Children : Education and Holistic Development

"If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be"

~Thomas Jefferson

13. Education is the bulwark of a nation's freedom and the engine of economic prosperity. Education has assured the preservation of the human species, and guarantees the advancement of human civilization.

14. Education is not only book learning imparted in a classroom to secure employment. The concept of education is wide enough to embrace various aspects of human existence and touches every facet of human life. The ability of the homo sapiens to understand and evolve themselves by knowing their place and relation to the universe around them is also comprised in education.

15. Education contemplates a holistic environment which is congenial to the growth of human faculties along the lines of excellence. Inculcation of healthy lifestyle habits, development of robust ethical values and character, and imbibing of vocational and academic knowledge form part of a vision of education of any nation ruled by law.

⁹ Criminal Misc. Bail Application No. 25993 of 2024

16. Education is the primary instrument to achieve our constitutional vision. Sarvepalli Radhakrishnan's view that "The aim of government is not so much efficiency as education is true for all times" is a guiding factor in the nation's governance. Right of education was incorporated as a fundamental right under Article 21A of the Constitution of India to realize our constitutional goals succinctly depicted in the Preamble. The legislature also created comprehensive frameworks and detailed mechanisms for realizing the fundamental right to education by enacting the Right to Education Act, 2009."

The importance of education was entrenched in constitutional law holding by the Supreme Court in **Avinash Nagra v. Navodaya Vidyalaya Samiti**¹⁰, by emphasizing the importance of education as an instrument of social change and as a vehicle for excellence.

"6.Education means a process which provides for intellectual, moral and physical development of a child for good character formation; mobility to social status; an opportunity to scale equality and a powerful instrument to bring about social change including necessary awakening among the people. Education promotes intellectual, moral and social democracy. Education lays foundation of good citizenship and is a principal instrument to awaken the child to intellectual and cultural pursuits and values in preparing the child for later professional training and helps him to adjust to the new environment. Education, therefore, should be correlated to the social, political or economic needs of our developing nation fostering secular values, breaking the barriers of casteism, linguism, religious bigotry and should act as an instrument of social change. Education kindles its flames for pursuit of excellence, enables and ennobles the young mind to sharpen his or her intellect more with reasoning than blind faith to reach intellectual heights and inculcate in him or her to strive for social equality and dignity of person."

(b) Role of teachers

The status of teachers has always been venerated in Indian culture, and their position has always been elevated in our Constitutional discourse.

The high pedestal on which teachers are placed in Indian traditions and thoughts, was recalled to explain the current role of teachers in Indian society in **Avinash Nagra (supra)**:

10 (1997) 2 SCC 534

"9. On the functions of a teacher, at p. 133, according to Dr Radhakrishnan, the success of the educational process depends considerably on the teacher, for it is the teacher who has to implant aims, and to build the character of the students. According to Laski, at bottom of the education, the quality of a university is always in direct proportion to the quality of its teacher. A good teacher is one who knows his subject, is enthusiastic about it and one who never ceases to learn. Communication with the students and sense of commitment to his work are necessary. A good teacher, therefore, according to Dr Radhakrishnan, is one who is objective, just, humble and is open to correction. According to Whitehead the teacher must be a self-confident learned man. The teacher, therefore, is the primary functionary to transmit the intellectual and ethical values to the young. He should encourage the attitude of free enquiry and rational reflections. The teacher should try to remove the leaden weights of pride and prejudice, passion and desire which are likely to cloud a student's vision. The devoted teacher is not only concerned with the child's intellectual development but also has the obligation to attend to his moral, emotional and social growth as well.

10. Mahatma Gandhi, the Father of the Nation has stated that "a teacher cannot be without character. If he lacks it, he will be like salt without its savour. A teacher must touch the hearts of his students. Boys imbibe more from the teacher's own life than they do from books. If teachers impart all the knowledge in the world to their students but do not inculcate truth and purity amongst them, they will have betrayed them". Shri Aurobindo has stated that "it is the teacher's province to hold aloft the torch, to insist at all times and at all places that this nation of ours was founded on idealism and that whatever may be the prevailing tendencies of the times, our children shall learn to live among the sunlit peaks". Dr S. Radhakrishnan has stated that "we in our country look upon teacher as gurus or, as acharyas. An Acharya is one whose aachar or conduct is exemplary. He must be an example of Sadachar or good conduct. He must inspire the pupils who are entrusted to his care with love of virtue and goodness. The ideal of a true teacher is *andhakaraniridhata gurur itya bhidhiyate*. Andhakar is not merely intellectual ignorance, but is also spiritual blindness. He who is able to remove that kind of spiritual blindness is called a guru. Are we deserving the noble appellation of an acharya or a guru?" Swami Vivekananda had stated that "the student should live from his very boyhood with one whose character is a blazing fire and should have before him a living example of the highest teaching. In our country, the imparting of knowledge has always been through men of renunciation. The charge of imparting knowledge should again fall upon the shoulder of Tyagis".

11. It is in this backdrop, therefore, that the Indian society has elevated the teacher as "*Guru Brahma, Gurur Vishnu, Guru Devo Maheswaraha*". As Brahma, the teacher creates knowledge, learning, wisdom and also creates out of his students, men and women, equipped with ability and knowledge, discipline and intellectualism to enable them to face the challenges of their lives. As Vishnu, the teacher is preserver of learning. As Maheswara, he destroys ignorance. Obviously, therefore, the teacher was placed on the pedestal below the parents. The State has taken care of service conditions of the teacher and he owes dual fundamental duties to himself and to the

society. As a member of the noble teaching profession and a citizen of India he should always be willing, self-disciplined, dedicated with integrity to remain ever a learner of knowledge, intelligently to articulate and communicate and imbibe in his students, as social duty, to impart education, to bring them up with discipline, inculcate to abjure violence and to develop scientific temper with a spirit of enquiry and reform constantly to rise to higher levels in any walk of life nurturing constitutional ideals enshrined in Article 51-A so as to make the students responsible citizens of the country. Thus the teacher either individually or collectively as a community of teachers, should regenerate this dedication with a bent of spiritualism in broader perspective of the constitutionalism with secular ideologies enshrined in the Constitution as an arm of the State to establish egalitarian social order under the rule of law. Therefore, when the society has given such a pedestal, the conduct, character, ability and disposition of a teacher should be to transform the student into a disciplined citizen, inquisitive to learn, intellectual to pursue in any walk of life with dedication, discipline and devotion with an enquiring mind but not with blind customary beliefs. The education that is imparted by the teacher determines the level of the student for the development, prosperity and welfare of the society. The quality, competence and character of the teacher are, therefore, most significant to mould the calibre, character and capacity of the students for successful working of democratic institutions and to sustain them in their later years of life as a responsible citizen in different responsibilities. Without a dedicated and disciplined teacher, even the best education system is bound to fail. It is, therefore, the duty of the teacher to take such care of the pupils as a careful parent would take of its children and the ordinary principle of vicarious liability would apply where negligence is that of a teacher. The age of the pupil and the nature of the activity in which he takes part are material factors determining the degree and supervision demanded by a teacher."

In Vineet Mishra vs Banaras Hindu University¹¹ this court discussing the contribution of teachers stated:

"19. Teachers in today's universities in continuity of Indian traditions remain role models for all students, and universities continue to be the nurseries which develop future leadership. Teachers as role models are the best catalysts for positive changes in our youth, and universities as institutions of learning provide the best environment for moulding minds.

41. The history of learning in India is marked by freedom of thought, rigorous adherence to logic and acceptance of lived experience as the basis to expand the frontiers of knowledge. Commenting upon the approach of the Upanishadic teachers and pupils in their quest for knowledge and truth C. Rajagopalachari said:

"The spacious imagination, the majestic sweep of thought and the almost reckless spirit of exploration with which, urged by the compelling thirst for truth, the Upanishad teachers and pupils dig into the Open Secret of the

11 2023 SCC OnLine All 2972

Universe, make this most ancient among the world's holy books still the most modern and most satisfying."

The Supreme Court in **Sushmita Basu v. Ballygunge Siksha Samity**¹² highlighted the traditional status of a teacher in our society and also elaborated on their critical role in building the India of tomorrow.

"5. We must remember that the profession of teaching is a noble profession. It is not an employment in the sense of it being merely an earner of bread and butter. A teacher fulfils a great role in the life of the nation. He is the "guru". It is the teacher, who moulds its future citizens by imparting to his students not only knowledge, but also a sense of duty, righteousness and dedication to the welfare of the nation, in addition to other qualities of head and heart. If teachers clamour for more salaries and perquisites, the normal consequence in the case of private educational institutions, if the demand is conceded, would be to pass on the burden to the students by increasing the fees payable by the students. Teachers must ask themselves whether they should be the cause for putting education beyond the ken of children of parents of average families with average incomes. A teacher's profession calls for a little sacrifice in the interests of the nation. The main asset of a teacher is his students, former and present. Teachers who have lived up to ideals are held in great esteem by their disciples. The position of the guru, the teacher, in our ethos is equal to that of God (Matha Pitha Guru Daivam). The teachers of today must ensure that this great Indian concept and the reverential position they hold, is not sacrificed at the altar of avarice."

(c) Teaching : Need of leisure time for teachers and Impact of productively spent holidays/ free time on teaching

Teaching consumes intellectual capital and draws on the emotional reservoir of teachers. After teaching hours teachers invariably devote themselves to constant reflection, unimpeded intellectual capital creation, and uninterrupted rejuvenation of human values that are essential for the discharge of their duties. Post school hours are not idled away by teachers. The free time has to be spent fruitfully by teachers in upgrading their knowledge, honing their

¹² (2006) 7 SCC 680

professional skills, and widening their horizons. After school hours are often utilized by teachers to correct notebooks, worksheets and assignments submitted by students. Teachers in this time also form an assessments of their pupils, and create specific plans to cater to individual needs of students.

The quality of teaching is often decisively influenced by the reading and reflection done in the leisure time available to the teachers after duty hours and on holidays. Holidays for teachers are a sanctuary for intellectual exploration and deepening of higher human faculties which build teaching skills and capacities. Structured use of non teaching hours and productively spent holidays yield enhanced outcomes and creative results in the teaching hours.

The State authorities cannot lightly or in a perfunctory manner encroach upon the free time of teachers. Unless other options have been fully explored and exercised, teachers are not liable to be detracted from their periods of self reflection or distracted from their endeavours at self education made in free time.

Many would believe that a teacher teaches in duty hours and learns during leisure time. In fact learning is a facet of teaching and teaching is a manifestation of learning. Both processes are two sides of one coin. Learning and teaching go hand in hand and always reinforce each other to replenish the reservoir of human knowledge, and foster the evolution of a more perfect human race. The master in the art of teaching makes no distinction between duty hours and leisure

time. True teachers simply pursue their vision of excellence in education and their quest to mould minds and enlighten lives; leaving it for others to decide whether they are at work or at leisure and whether they are learning or teaching.

The summits of human achievements and the advancing strides of human civilization are an ode to the scholarly and spiritual strivings of teachers.

The observations made by the learned Division Bench in **Sunita Sharma (supra)** regarding the judicious use of time by teachers after they are free from school duties also aligns with the narrative.

(d) Election Guideline No. 1.5d

Minimal Appointment of Teachers: Interpretations and Conclusion

Benefiting from the constitutional law discourse which underscores the role of teachers in the society, the Election Commission of India imposed certain conditionalities on appointment of teachers as Booth Level Officers. The said limitations provided in guideline No. 1.5d are extracted herein under:-

"1.5

d. Teachers shall be drafted minimally as Booth Level Officers. However, where necessary they should be drafted for Booth Level Officer work during holidays and during non-teaching hours and non-teaching days so as to avoid any

loss of academic work. It must be ensured that no teacher of a single teacher school is deployed for this purpose."

The said Election Commission guideline No. 1.5d by restricting the appointment of teachers seeks to balance the competing imperatives of the Right to Education, the indispensable role of teachers in the society, and the necessity of electoral work in a democracy. The aforesaid restrictions in Election Commission guidelines have to be interpreted in the backdrop of the importance of education in our country, the role of teachers in our Constitutional scheme, and that elections are the life blood of any democracy.

By issuing the restrictive directive of "minimal appointment of teachers" on election duties the Election Commission has ensured that the electoral process does not impose onerous demands on the educational system. In the wake of the preceding discussion Guideline No. 1.5d clearly mandates that teachers will be employed on election duties only after all other categories of employees mentioned in the Election Guideline No. 1.5d have been exhausted. In other words the appointment of Booth Level Officers or assignment of election duties shall be first made from the pool of all categories of employees depicted in the Election Guidelines No. 1.2 except for teachers. There may be occasions when even after appointment of all other categories of employees (apart from teachers) vacancies of Booth Level Officers are not filled and there is need for additional hands. In that

situation alone teachers can be appointed as Booth Level Officers and assigned election duties. Engagement of teachers on election duties shall always be a measure of last resort, and only after all other options in Election Guidelines No. 1.2 and 1.5d have been exercised.

H. Final Directions:

Accordingly, the respondent authorities are directed to refix the deployment of teachers as Booth Level Officers or on other election duties in light of the above interpretation of Election Commission Guideline No. 1.5d read with Election Commission Guideline No. 1.2. In case other categories of staff mentioned in Election Guideline No. 1.2 are available, teachers shall not be deployed on election duties or appointed as Booth Level Officers. The exercise shall be completed within a period of three months.

However, till such exercise is carried out the concerned teachers will have to discharge their electoral duties as contemplated in the impugned list of BLO dated 16.08.2024 passed by the respondent No. 7 i.e. District Magistrate/District Electoral Registration Officer, Jhansi. The petitioner shall perform the electoral duties on holidays and after teaching hours till fresh orders in compliance of directions in this writ petition. The impugned order/list shall however abide by the fresh orders to be passed by the respondent No. 7 pursuant to the above directions.

With the aforesaid directions, the writ petition is finally
disposed of.

Order Date :- 11.02.2025

Vandit