

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI  
DIRECTORATE OF EDUCATION,  
OLD SECRETARIAT, DELHI-110054**

No.:DE.4/1/391/E-IV/Court Case/2013/4673

Dated: 10-11-2016

**ORDER**

**Whereas**, Smt. Neelam Kataria W/o Sh. Lokesh Kataria applied for the post of Special Education Teacher (SET), under the Directorate of Education, Govt. of NCT of Delhi, in response to Advertisement No. 01/13 of the Delhi Subordinate Services Selection Board (DSSSB) pending her result for the previous CTET examination but marking herself as CTET-qualified. The fact, however, remains that it was a false declaration/mis-representation on the part of the Petitioner as she had just appeared for the CTET exam at that time and the result had not been declared;

**And whereas**, on receiving her CTET result later on, Smt. Neelam Kataria came to know that she had not been able to clear the CTET examination;

**And whereas**, fearing rejection of her candidature at the stage of scrutiny of documents for being not CTET-qualified, Smt. Neelam Kataria made a representation to the Chief Secretary, Govt. of NCT of Delhi, the Secretary, MHRD, GOI and the Secretary, DSSSB to grant two years time to her for acquiring CTET qualification;

**And whereas**, without waiting for any response to her representations, Smt. Neelam Kataria filed an OA no. 2563/2013 before Hon'ble CAT seeking relief as under:

- i. Issue an appropriate order or direction thereby quashing the Clause 4 of the impugned guidelines dated 08.11.2010 of the MHRD whereby MHRD in clause 4 thereof has provided that the condition of passing TET shall not be relaxed by the Central Government;
- ii. Issue an appropriate order or direction thereby directing the Chief Secretary, Govt. of NCT of Delhi and Directorate of Education, Govt. of NCT of Delhi to take up the matter with the Central Government for grant of relaxation in the matter of CTET qualification to her for a period of 2 years in terms of Section 23(2) of the RTE Act, 2009;
- iii. Issue an appropriate order or direction thereby directing the Central Government to consider the case of the applicant for grant of relaxation in the qualification of CTET up to March 31, 2015;
- iv. Issue an appropriate order or direction thereby directing the DSSSB not to reject the candidature of the applicant on the ground of non-qualification of CTET until the disposal of applicant's representation by the respondents;

**And whereas**, Hon'ble CAT vide its order dated 12.02.2015 set aside Clause 4 of the impugned guidelines issued vide No. 1-15/2010-EE-4 dated 08.11.2010. The operative part of the said order is as under:

*"in view of the aforementioned, we set aside Clause 4 of the impugned guidelines issued vide No 1-15/2010 EE4 dated 08.11.2010 (Annexure A/1). It would be open to the respondents to take up the matter for exercise of the powers conferred upon the Central Government under section 23(2) of the Right of Children to Free and Compulsory Education Act, 2009, as per procedure laid down in the aforementioned guidelines. The O.A. stands disposed of. No costs."*

**And whereas**, as per the directions of Hon'ble CAT, the Directorate of Education informed MHRD vide its letter No 3611 dated 05.06.2015 to inform MHRD about the Court ruling in the matter. Vide their letter No 4-71/2013-EE-4 dated 24.09.2015, the MHRD informed the Directorate of Education as under:

*this Department in consultation with the Department of Legal Affairs, Ministry of Law & Justice, and the decision taken in this regard will be communicated in due course".*

**And whereas,** Smt. Neelam Kataria challenged the order of Hon'ble CAT dated 12.02.2015 before Hon'ble High Court of Delhi by filing WP(C) no. 189/2016 for setting aside/modifying the impugned order dated 12.02.2015 passed by Hon'ble CAT in OA No. 2563/2013 so as to direct Govt. of NCT of Delhi to take up the matter with the Central Government for grant of relaxation to her in terms of Section 23(2) of the RTE Act, 2009 and also to direct Respondent No.4 i.e. Central Government to consider her case for grant of relaxation in the qualification of CTET;

**And whereas,** Hon'ble High Court of Delhi, vide its order dated 11.01.2016, issued the following directions:

*"We find the prayer of the counsel for the petitioner to be fair and just. Accordingly, we direct the respondent No. 1 and 2 to consider the case of the petitioner within a period of eight weeks from the date of receipt of this order in accordance with law. This order is without prejudice to the rights and contention of the parties."*

**And whereas,** this Directorate communicated the aforesaid order of the Hon'ble High Court to the Director (UT) in the MHRD for their advice and appropriate action i.e considering it for relaxation.

**And whereas,** MHRD, GOI vide its letter dated 22.08.2016 informed Directorate of Education, Govt. of NCT of Delhi as under:

*"As on date, the Department has not relaxed TET for any State/UT 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".*

The rationale for including TET as a minimum qualification for a person to be eligible for appointment as a teacher is that it would send a positive signal to all stake holders that the Government lays special emphasis on teacher quality and that it would bring national standards and benchmark of teacher quality in the recruitment process. The letter further said that MHRD would consider the case for relaxing the minimum qualification prescribed for the post of SET once the request from Delhi Govt. is received along with the information related to the demand and availability of candidates with prescribed qualification;

**And whereas,** it has been further informed that in exercise of the powers conferred under Section 23(1) of the RTE Act, 2009, National Council for Teachers Education (NCTE) has been notified by the Central Government as Academic Authority to lay down the minimum qualifications required for a person to be appointed as a teacher. Accordingly, NCTE vide its notification dated 23.08.2010 (as amended from time to time) prescribed the minimum qualifications for a person to be eligible as a teacher for classes I to VIII, under which passing of TET is one of the eligibility criteria;

**And whereas,** it has also been informed that Section 23(2) of the RTE Act empowers the Central Government to relax such minimum qualification as prescribed by NCTE, which includes, inter alia, passing of TET. As on date, the MHRD has not relaxed TET for any State/UT with the obvious intention 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;

**And whereas,** as per Rule 18 of the Central RTE Rules, 2010, notified by the Central Government, where a State Government or the Union Territory does not have adequate institutions offering courses or training in teacher education, or persons possessing minimum qualifications as notified in sub-rule (2) of Rule 17 are not available in sufficient numbers, in relation to the requirement of teachers estimated under sub-rule (1), the State

Government or the Union Territory shall request, within one year of the commencement of the Act, the Central Government for relaxation of the prescribed minimum qualification;

**And whereas**, the time limit for making request, as per Rule 18 of the Central RTE Rules, 2010, for relaxation of the prescribed minimum qualification for the post of Special Education Teacher has already elapsed; As for shortage of training institutions or shortage of persons possessing minimum qualifications, it is recorded that Delhi has none of the two. Against 933 sanctioned posts of Spl Edu Teachers, 762 teachers are already working and all of them are CTET qualified. Dossiers of another 130 CTET qualified Spl. Ed. Trs have also been received from the DSSSB and are being processed by this Directorate for medical test/posting. In addition to these, another 171 CTET qualified Spl. Edu. Teachers have also applied for engagement as Guest Faculty. Thus, there is no dearth of CTET qualified Spl. Edu. Teachers.


**And whereas**, Smt. Neelam Kataria was afforded opportunity for personal hearing by the undersigned on 08.11.2016;

**As whereas**, Smt. Neelam Kataria appeared for a Personal Hearing on 08.11.2016. She, however, did not bring any new facts to the notice of the undersigned. The next day i.e on 09.11.2016, she submitted a copy of CAT order in OA No 1378/2013 and 1357/2013 dated 26.04.2013. A perusal of the said order reveals that the order is about those applicants, who were "denied permission to appear in the said (DSSSB) Test". On the contrary, the case of Smt. Neelam Kataria is that she mis-represented herself deliberately on having 'qualified CTET'. In fact, her application is liable to be cancelled on account of this falsification of facts itself.

**Moreover**, even for normal students, the MHRD has not relaxed the CTET condition. The specially abled children need even more sensitive and expert teachers who can appreciate and resolve their issues. That is all the more reason, Govt should provide them with professionally and technically qualified teachers.

**Now, therefore**, having gone through the Rule position and the record available in the matter, the undersigned is of the view that there is no need for requesting the Central Government for relaxation of the prescribed minimum qualification for the post of Special Education Teacher and hence there is no merit in the representation.

The representation of Smt. Neelam Kataria thus stands disposed off.

  
(SAUMYA GUPTA)  
DIRECTOR (EDUCATION)

**Smt. Neelam Kataria**  
**W/o Sh. Lokesh Kataria**  
**318 D, Chirag Delhi**  
**New Delhi-110017**

No.:DE.4/1/391/E-IV/Court Case/2013/ 4673

Dated: 10-11-2016

Copy for information and necessary action to:

- 1 PS to Secretary (Education)
- 2 PS to Director (Education)
- 3 Spl. DE (IEDSS), Directorate of Education, GNCT of Delhi
- 4 DDE (IEDSS), Directorate of Education, GNCT of Delhi
- 5 OS(IT)with direction to upload the order on the website
- 6 Guard File

  
(Aseem Kumar Goel)  
DDE (IEDSS)