



2026:AHC:71043-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

AFR

WRIT - A No. - 11604 of 2025

Akhilesh And 3 Others

.....Petitioner(s)

Versus

State Of Uttar Pradesh And 4 Others

.....Respondent(s)

Counsel for Petitioner(s) : Taniya Pandey
Counsel for Respondent(s) : C.S.C., M.N. Singh, Vaibhav Tripathi

Along with:

WRIT - A No. - 18038 of 2025

Jayhind Yadav And Another

.....Petitioner(s)

Versus

State Of Up And 3 Others

.....Respondent(s)

Counsel for Petitioner(s) : Sanjay Kumar Yadav, Siddharth Khare,
Sr. Advocate
Counsel for Respondent(s) : Fuzail Ahmad Ansari, C.S.C.,
Mahendra Narain Singh

Court No. - 29

**HON'BLE ARINDAM SINHA, J.
HON'BLE PRASHANT KUMAR, J.**

(Per: Arindam Sinha,J.)

1. Two writ petitions have been taken up for hearing. In Writ - A no.11604 of 2025 prayer is for quashing rule 8 of Uttar Pradesh Subordinate Educational (Trained Graduate Grade) Service Rules, 1983 as amended by 6th amendment dated 30th January, 2025 insofar as the same is in contravention of National Council for Teacher Education (NCTE) notification dated 23rd August, 2010. Petitioners say the notification mandates passing of Teacher Eligibility Test (TET) for appointment to post of Assistant Teacher, to teach classes VI to VIII.

Prayer in Writ - A no.18038 of 2025 carries similar prayer inasmuch as, allegedly offending rule 8 is sought to be declared ultravires and consequent quashing of advertisement dated 28th July, 2025 issued by Public Service Commission, Uttar Pradesh for recruitment under the rules. Ms. Taniya Pandey, learned advocate appears on behalf of petitioners in Writ -A no.11064 of 2025 and Mr. Sanjay Kumar Yadav, learned advocate appears on behalf of petitioners in the other writ petition.

2. Ms. Pandey submits, by notification dated 31st March, 2010 published by authority in Gazette of India Extraordinary on 5th April, 2010, NCTE was conferred power under sub-section (1) in section 23 of Right of Children to Free and Compulsory Education Act, 2009, to be authorized as the academic authority to lay down minimum qualification(s) for a person to be eligible for appointment as a teacher. We obtained confirmation from respondents that the Act applies to teachers to teach upto class VIII.

3. Ms. Pandey submits further, pursuant to this authorization there was notification dated 23rd August, 2010 issued by the authority, mandating eligibility criteria of possessing, apart from other qualification(s) TET (pass). She demonstrates from allegedly offending rule 8 that inspite of the amendment made thereto subsequent to the Act and notification, it did not include the mandated qualification TET (pass) for purpose of the recruitment. She submits upon reliance on statement made in paragraph 8 of supplementary counter affidavit affirmed by the Additional Director of Education that there are 904 institutions, where students in classes VI to XII are being taught. The paragraph is reproduced below.

"8. That at this juncture, it may also be stated that in the State of U.P. there are 1488 government high schools where only classes IX and X are taught. Further, there are 70 intermediate colleges where only classes IX to XII are being taught, and there are only 904 institutions where classes VI to XII are being taught."

(emphasis supplied)

She submits, there has been no recruitment pursuant to the notification. In the circumstances, existence of 904 institutions, where classes VI to XII are being taught necessarily means that Assistant Teachers, who do not have qualification of TET (pass) are also teaching classes VI to VIII. The rule is thus ultravires section 23 in Right of Children to Free and Compulsory Education Act, 2009, by omission. She seeks interference.

4. Mr. Sanjay Kumar Yadav adopts submissions made by Ms. Pandey and adds, the Defence forces have incorporated the requirement for recruiting teachers to their institutions. Learned advocate for petitioners pray for direction on quashing the advertisement.

5. Mr. Kartikeya Saran, learned advocate, Additional Advocate General assisted by Mr. Saurabh, learned advocate, Standing Counsel appear on behalf of respondent nos.1 to 3. They are State through the education department. Mr. Saran submits, there was notification dated 12th November, 2014 issued by NCTE, mandating educational qualifications for recruitment of teachers to classes IX and X. Consequent thereto, two amendments were made to the rules. First was in year 2016, to insert additional requirement of bachelor degree and BEd or equivalent thereto and second was more in nature of clarification in year 2025, inserting inclusive term 'graduation degree'. The amended rules have been relied upon for issuance of aforesaid recruitment notice dated 28th July, 2025. He submits he has clear instructions that there has been no recruitment under the rules for teachers to teach classes VI to VIII. He points out from counter affidavit dated 9th December, 2025, there stands disclosed order dated 28th February, 2017 made by coordinate Bench. Relevant text of the order is reproduced below.

"The prayer made in the writ petition reads thus:

"a) Issue a writ, order or direction in the nature of Certiorari quashing the impugned advertisement dated 21.12.2016 advertising total 9342 posts of Trained Graduate Teacher/L.T. Grade Teacher to be appointed in Government Inter Colleges for teaching the students from Class 6th to 10th without prescribing Teacher Eligibility Test as essential qualification."

The petition is filed on the assumption that the advertisement has been issued for appointing 9342 Trained Graduate Teachers/L.T. Grade Teachers for classes 6 to 10. Counsel appearing for respondents 1 to 3, on instructions, submits that the impugned advertisement and the posts of Trained Graduate Teachers/L.T. Grade Teachers are for classes 9 and 10, and not for classes 6 to 8th standard. His statement is recorded and accepted. In view thereof, counsel for the petitioner does not press this writ petition."

(emphasis supplied)

Thereby is demonstration that the rule under challenge was duly amended pursuant to the year 2014 notification issued by NCTE, in respect of recruitment of teachers for classes IX and X. He opposes the writ petitions.

6. Mr. Fuzail Ahmad Ansari, learned advocate appears on behalf of respondent no.5 (the Commission) in one writ petition and respondent no.4 in the other. He submits, the recruitment notice was issued by his client for recruitment of trained graduate teachers (TGT). On query he submits, there is no indication in the advertisement regarding classes to be taught by the teachers recruited. Mr. Vaibhav Tripathi, learned advocate appears on behalf of NCTE. He submits, his client was duly empowered to mandate qualifications on recruitment of the teachers. By notification dated 23rd August, 2010 requisite qualifications for recruitment of teachers appointed to teach upto classes VIII were notified. By subsequent notification dated 12th November, 2014, same was notified in respect of teachers who are to be recruited to teach classes IX and X.

7. On specific query, we have not been shown by respondents that there has been recruitment or at least initiated by a recruitment notice, pursuant to the requisite qualification mandated by NCTE on notification dated 23rd August, 2010. It follows, respondents cannot say that no vacancy has arisen in post of teachers to teach classes VI to VIII, particularly when there is admission on affidavit made by the Additional Director of Education that there exists 904 institutions where students study from

classes VI to XII. As such, petitioners have demonstrated the omission, more so because the recruitment notice dated 28th July, 2025 does not specify the recruitment necessity of the recruited, in respect of classes to be taught. We find there is a gap in rule 8. On query Mr. Saran submits, upon direction made, State will have to propose amendment. Thus we do direct that there be insertion in rule 8, as requisite qualification in addition to those mentioned, TET (pass). We direct the Commission to issue corrigendum clarifying that the advertisement relates to recruitment of teachers for class IX and X. For the purpose, the State will issue necessary instructions.

9. The writ petitions are **allowed** to above extent and disposed of.

(Arindam Sinha,J.)

(Prashant Kumar,J.)

April 2, 2026

Anupam S/-