

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.2773/2018

M.A. No.3088/2018

MA No. 3089/2018

Reserved On: 27.07.2018

Pronounced On:31.07.2018

HON'BLE MS. NITA CHOWDHURY, MEMBER (A)

HON'BLE MR. S.N. TERDAL, MEMBER (J)

1. Nikhita, aged 19 Y 7 M
DOB: 27.12.1998
D/o Samsher Singh,
R/o H.No.375, Ganga Ram Panna,
VPO Kair, New Delhi-110043
2. Sunchill,
DOB: 20.10.1998
D/o Sunil Kumar,
R/o H.No.375, Ganga Ram Panna,
VPO Kair, New Delhi-110045
3. Deepika, DOB 09.11.1998
D/o Naresh Kumar,
R/o H.No.RZ-P1/2A,
New Roshan Pura, Nazafgarh,
New Delhi-110043
4. Seema Kumari,
DOB: 11.10.1998
D/o Vijay Parjapati,
R/o H.No.40A/2, E Block Ext.
Shyam Vihar, PH 1, Najagarh,
New Delhi-110043
5. Karuna, DOB: 24.06.1999
D/o Sunil Kumar Sehrawat,
R/o H.No.453, Nanger Panna,
Kair, Najafgarh, South West,
Delhi-110043
6. Bhavesh Yadav,

DOB: 15.09.1998
S/o Sanjeev Yadav,
R/o VPO Daulatpur,
South West Delhi-110043

7. Aruna Chauhan,
DOB 11.06.1996
D/o Randhir Singh Chauhan,
R/o F.No.138, LIG Flat, Pkt-4,
DDA Flat, Sector-A-9, Narela,
Delhi-110040
8. Kirti,
DOB 07.11.1998
D/o Bal Kishan,
R/o F.No.103, II Floor,
Doctor Complex Lampur Road,
Narela North West, Delhi-110040
9. Renu,
DOB 01.04.1993
D/o Suresh Kumar,
R/o VPO Dhansa Village,
South West Delhi-110073
10. Ajay,
DOB: 30.09.1995
S/o Laxman Singh,
R/o H.No.88A, Street No.6,
Devi Nagar, Shiv Vihar, Sahapur,
North West, Delhi-110094
11. Poonam,
DOB: 27.08.1991
D/o Mahinder Singh,
R/o H.No.347, VPO Khera Khurd,
Khera Kalan, North West, Delhi-10082
12. Yash Saroha,
DOB 30.09.1996
S/o Shailender Singh Saroha,
R/o H.No.356, Near Shiv Mandir,
Lehrara, Sonapat,
Haryana-131001
13. Gaurav, DOB 16.12.92
S/o Sh. Shailender Singh Saroha,
R/o WZ-1666, Nangal Raya,

New Delhi-110046

14. Nikita,
DOB 22.09.1996,
D/o Neeraj Dabas,
R/o H.No.52, Budhanpur,
Mirja Dabas, Delhi-110081
15. Lalit Sehrawat,
DOB: 30.03.1997
D/o Braham Prakash,
R/o H.No.421,
VPO Kair, Najafgarh,
Delhi-110043
16. Sumita, DOB: 17.05.1993,
D/o Samsheer Singh,
R/o VPO Badli,
Distt. Jhajjar, Haryana-125105
17. Sonia Rana,
DOB 01.11.1991
D/o Ramesh Rana,
R/o H.No.518,
VPO Khera Kalan, Delhi-82 - Applicants

(By Advocate: Shri J.S. Mann)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary,
5th Floor, Delhi Sachivalaya,
New Delhi.
2. Delhi Subordinate Services Selection Board,
Through its Chairman, GNCTD,
F-18, Kakardooma, Institutional Area,
Delhi-110092
3. South Delhi Municipal Corporation,
Through its Commissioner,
4th Floor, Civic Centre,
Minto Road, New Delhi-2
4. Chairman,
Central Board of Secondary Education,
Shiksha Kendra 2, Community Centre,

Preet Vihar, Delhi-110092

5. Union of India,
Through Joint Secretary,
Department of Higher Education,
Ministry of Human Resources Development
Shashtri Bhawan, New Delhi-110001- Respondents

ORDER

By Ms. Nita Chowdhury, Member (A)

M.A. No. 3088/2018

This MA has been filed by the applicants for joining together in a single application. For the reasons mentioned therein, MA is allowed.

O.A. No. 2773/2018

This Original Application (OA) has been filed by the applicants seeking the following reliefs:-

“(a) to quash relevant portion/instructions/details prescribing CTET as mandatory qualification for the post of Teacher (Primary) in post code No.1/18 as per advertisement No.01/18; and/or

(b) direct the respondents to grant relaxation of CTET to the applicants for the post of Teacher (Primary) in post code No.1/18 as per advertisement No.01/18; and/or

(c) pass any other order/direction which this Hon’ble Tribunal deem fit and proper in favour of the applicant and against the respondents in the facts and circumstances of the case.”

2. The facts, in brief, are that in this OA applicants are seeking direction to the respondent No.4-Central Board of Secondary Education (CBSE) that they are not conducting the Central Teacher Eligibility Test (CTET) in the later part of 2016, entire year of 2017 and half of 2018 which is one of the essential qualification for various teaching posts notified vide advertisement No.1/18. Their further dispute is to the impugned action on the part of the respondents in not relaxing the CTET qualification for appointment on the teaching posts as notified vide advertisement No.1/18 dated 26.06.2018 by the Director of Education, GNCTD for the post of applicants. They are aspirants to the post of Primary Teacher, Post Code 1/18, but are not able to apply online as they are not having CTET.

3. The applicants further submit that they are aggrieved by the inaction on the part of the respondent No.1 to take up the matter with the Central Government for grant of relaxation in CTET qualification in terms of Section 23 (2) of the Rights of Children Free and Compulsory Education Act, 2009 to the applicants for the post of Primary Teacher, post code 1/18, as advertised vide advertisement No.01/18. Since there has been no mechanism in place to conduct the CTET after

September, 2016, the respondents ought to have considered and granted relaxation to the applicants to have qualified CTET on the closing date of applications viz. 30.07.2018 and the applicants are ready and willing to qualify in the next CTET, whenever the same is conducted.

4. The applicants next pleaded that CTET is being conducted twice every year, i.e., once in February and second in September but their plea is that after September, 2016 no CTET has been conducted and as such they have been deprived of their right to appear in the CTET examination and acquire the said qualification. Hence, they have prayed that they be given two chances to appear in the CTET after they had submitted their application form for the posts in terms of advertisement No.01/18.

5. They further pleaded that large number of vacancies for the post of Special Education Teacher and other teacher in the Directorate of Education have been lying vacant since 2011 (i.e. when the said posts were advertised) till date but could not be filled due to non-availability of suitable candidates. They have thus prayed that the OA be allowed and they be permitted to appear in the CTET examination.

6. Heard Shri J.S. Mann, the learned counsel for the applicants and perused the pleadings on record.

7. The short point involved in this case is that applicants who have not qualified CTET examination are seeking direction to be given to the respondents to hold the said examination so that they can apply for the posts of teacher. We may mention, that it is the prerogative of the Government/State Government when to hold a particular test but Courts cannot give any direction in this regard. No doubt, if they have applied for a particular post cost 1/18 for MCD and are not CTET qualified, how can their forms be accepted. By way of this OA, the applicants are seeking automatic exemption to hold CTET examination which is not within our domain and it is for the Government to see when to conduct a particular exam.

8. The details of the qualifications of the applicants are as under:-

Name of Applicants	Qualifications
Nikitha	July, 2018 (Diploma in Elementary Education)
Sunchill	July, 2018 (Diploma in Elementary Education)
Deepika	July, 2018 (Diploma in Elementary Education)

Seema Kumari	July, 2018 (Diploma in Elementary Education)
Karuna	July, 2018 (Diploma in Elementary Education)
Bhavesh Yadav	July, 2018 (Diploma in Elementary Education)
Aruna Chauhan	July, 2018 (Diploma in Elementary Education)
Kirti	July, 2018 (Diploma in Elementary Education)
Renu	August, 2017 (Diploma in Elementary Education)
Ajay	21.11.2016 (Diploma in Elementary Education)
Poonam	15.10.2015 (Diploma in Elementary Education)
Yash Saroh	09.11.2016 (Diploma in Elementary Education)
Gaurav	28.08.2017 (Diploma in Elementary Education)
Nikita	21.11.2016 (Diploma in Elementary Education)
Lalit Sehrawat	29.09.2017 (Diploma in Education)
Sumita	20.03.2013 (Diploma in Education)

9. Hence the averments, with regard to the fact that the requisite qualifications are not found to be correct. From the above, it is clear that the some of the applicants

only acquired the basic qualification for applying for CTET only in the year 2018. Hence, the respondents cannot be called into question for delaying of holding of CTET examination.

10. The applicants have also submitted since CTET was not regularly held after 2010 hence directions be issued to hold the same test. In this regard, the Hon'ble Supreme Court in the case of **State of Rajasthan v. Ram Saran, AIR 1964 SC 1361**, while interpreting the provisions of Section 2 of the Act, 1861, held that **State Government alone is empowered to frame Rules regulating the condition of service of members of the police force**. Thus the decision rendered in **Ram Saran's case** (supra) is fully applicable to the applicants case and they cannot be granted any interim relief.

11. In the circumstances giving a blanket permission to everybody who wants to participate in a selection without considering the individual facts of each case, would not be in accordance with law. Thus seen from any angle, the interim relief, as prayed for by the applicants, in this OA is not allowed.

12. Last applicant in this OA, namely, Sumita as mentioned in para 8 above, had passed her diploma in education in 2013. Thus, we find that she could have

availed of earlier opportunities to participate in the CTET Examination when held. Her choosing not to participate in the same was entirely her decision/discretion. Hence, seeking relaxation of the CTET qualification for applying for the present examination notification cannot be a matter of right as desired in this application for interim relief. Hence, request is denied.

13. Issue notice to the respondents to file their reply within 2 weeks and thereafter 2 weeks to the applicants to file rejoinder. List the matter before the Principal Registrar's court for completion of pleadings on 31.08.2018.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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