

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7479 OF 2009
(Arising out of SLP (C) No.27031/2008)

Irrigineni Venkata Krishna & Others ...Appellants

Versus

Government of Andhra Pradesh & Anr. ...Respondents

WITH

CIVIL APPEAL NOS. 7480-7481 OF 2009
(Arising out of SLP (C) Nos. 27992-27993 of 2008)

CIVIL APPEAL NOS.7482-7484 OF 2009
(Arising out of SLP (C) Nos. 30419-30421 of 2008)

CIVIL APPEAL NO.7485 OF 2009
(Arising out of SLP (C) Nos. 30860 of 2008)

ORDER

Leave granted.

2. The Division Bench in its judgment dated August 29, 2008, out of which the present group of seven appeals arises, has relied upon the judgment of this Court in *Basic Education Board, U.P. vs. Upendra Rai and Others* [(2008) 3 SCC 432] in holding that the regulations framed under the National Council for Teacher Education Act, 1993 (for short,

‘NCTE Act’) do not bind the State Government in the matter of fixation of qualifications for teachers in formal schools. This is what the High Court said :

“.....Following said judgment of the Apex Court in UPENDRA RAI’s case (1 supra), we are of the view that the judgment of the Tribunal is un-sustainable and is liable to be set aside insofar as holding that NCTE Act has binding nature on the State Government in the matter of fixation of qualifications for teachers in formal schools. In the circumstances, we find force in the contentions of the Government that the Central Regulations framed by NCTE purportedly made under clause (d) (i) of Sub-section (2) of Section 32 read with section 12(d) of the NCTE Act, 1993 are not applicable or extended to formal school, and that it is the discretion of recruiting agency to prescribe the necessary qualification for the SGT posts.”

3. In *Upendra Rai*, this Court held in paragraphs 19 and 22 of the report thus :

“19. A perusal of the NCTE Act shows that this Act was made to regulate the teachers’ training system and the teachers’ training institutes in the country. It may be mentioned that there are two types of educational institutions — (1) ordinary educational institutions like primary schools, high schools, intermediate colleges and universities, and (2) teachers’ training institutes. The NCTE Act only deals with the second category of institutions viz. teachers’ training institutes. It has nothing to do with the ordinary educational institutions referred to above. Hence, the qualification for appointment as teacher in the ordinary educational institutions like the primary school, cannot be prescribed under the NCTE Act, and the essential qualifications are prescribed by the local Acts and Rules in each State. In U.P. the essential qualification for appointment as a primary school teacher in a junior basic school is prescribed by Rule 8 of the U.P. Basic Education (Teachers) Service Rules, 1981 which have been framed under the U.P. Basic Education Act, 1972. A person who

does not have the qualification mentioned in Rule 8 of the
aforesaid Rules cannot validly be appointed as an Assistant
Master or Assistant Mistress in a junior basic school.”

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22. It may be mentioned that the word “institution” is defined
in Section 2(e) of the NCTE Act to mean an institution which
offers courses or training in *teachers’ education*. Thus, the
NCTE Act does not deal with the ordinary educational
institutions like primary schools, high schools, intermediate
college or university. The word “institution” as defined in
Section 2(2) [*sic* 2(e)] only means teachers’ training
institutes and not the ordinary educational institutions.
Hence, it is only the teachers’ training institutions which have
to seek grant of recognition or continuation of recognition
from the Regional Committee. The ordinary educational
institutions do not have to seek any such recognition or
continuation under the NCTE Act. In fact, the NCTE Act
does not relate to the ordinary educational institutions at all.
We, therefore, fail to understand how it can be said that the
NCTE Act overrides the U.P. Basic Education Act and the
Rules made thereunder. In fact, the two Acts operate in
altogether two different fields. The NCTE Act deals with the
teachers’ training institutions while the U.P. Basic Education
Act deals with the ordinary primary schools in U.P. and not
any teachers’ training institute. The argument of learned
counsel for the respondent is thus wholly misconceived.”

4. The aforesaid reasoning and conclusion in *Upendra Rai* have been assailed by the learned Senior Counsel for the appellants and it was submitted that *Upendra Rai* does not lay down the correct law that NCTE Act only deals with teachers training institutes; that it has nothing to do with the ordinary educational institutions and that the qualification for appointment as teacher in the ordinary educational institutions

like the primary school cannot be prescribed under the NCTE Act.

5. Having given our thoughtful consideration, in our view, it would be in fitness of things, if these appeals are heard by a three-Judge Bench for authoritative pronouncement on the following questions of law :

1. Whether NCTE Act only deals with the teachers' training institutes and the power conferred upon the National Council for Teachers' Education under section 12(d) of that Act in laying down guidelines in respect of minimum qualifications for a person to be employed as a teacher is confined to such institutes i.e., teachers' training institutes ?

2. If answer to the aforesaid question is in negative, whether the Regulations framed in exercise of the powers under Section 32(2)(d)(i) read with Section 12(d) of NCTE Act by the National Council for Teacher Education laying down qualifications for employment of teachers in primary schools is binding on the state government and in view thereof, the state government is denuded of its authority to enact qualifications for appointment as teachers in primary schools?

6. Let these appeals be placed before Hon'ble the Chief Justice of India for appropriate directions. The parties shall be at liberty to apply for expeditious hearing of these appeals.

.....J
(Tarun Chatterjee)

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.....J
(R. M. Lodha)

New Delhi
November 9, 2009.