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**DEVESH SHARMA VS UNION OF INDIA: A QUEST FOR
ELIGIBILITY OF B.Ed. DEGREE HOLDERS AS PRIMARY SCHOOL
TEACHERS**- Sukritha.C.A¹**ABSTRACT**

“In the contemporary era, education has emerged as a pivotal force in the ongoing struggle for survival. Analogous to the indispensable role of a stable foundation in constructing a building, education for children has become an elemental cornerstone in shaping their futures. Beyond mere compulsion, the education imparted must attain a higher echelon of quality. Schools bear the responsibility of not only instilling academic knowledge but also fostering social, emotional, mental, physical, and cognitive development in students. The aim should extend beyond mere test preparation; instead, education ought to equip individuals for the multifaceted challenges of life. Central to this educational paradigm is the critical role played by qualified teachers. Their expertise becomes the conduit through which a holistic and enriching educational experience is delivered. In the Indian context, elementary education is bifurcated into two levels—primary (I-V) and upper primary (VI-VIII). The primary phase serves as the bedrock, endowing children with fundamental knowledge and information-handling skills. Consequently, it becomes imperative to provide rigorous training for students in these foundational grades, laying the groundwork for a nuanced understanding of complex concepts and theories in subsequent academic levels. A legal perspective on this educational landscape is encapsulated in the case of Devesh Sharma vs. Union of India. This legal discourse delves into the intricate web of regulations governing the eligibility of B.Ed. degree holders as primary school teachers. It scrutinizes the nexus between the quality of education and the differential capacities of B.Ed. degree holders and

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D.El.Ed. holders in effectively instructing students across various age groups. In navigating this legal labyrinth, the case sheds light on the nuanced requirements essential for moulding effective educators and, consequently, fostering a robust educational foundation for the burgeoning generations.”

KEYWORDS: primary school teachers, quality of education, NCTE, RTE, B.Ed. degree holders, D.El.Ed. holders

CASE NAME:	Devesh Sharma vs Union of India and ors.
CASE NUMBER:	Civil Appeal no.5068 of 2023 (Arising out of special leave petition (c) no.20743 of 2021)
QUORM:	J. Aniruddha Bose & J. Sudhanshu Dhulia
DECIDED ON:	11 th August, 2023
APPELLANT:	Devesh Sharma
RESPONDENTS	Union of India and ors,
JURISDICTION:	Hon'ble Supreme Court of India
SECTIONS AND ACTS;	The Constitution of India -Article 21A The Right to Education Act,2009

INTRODUCTION

The esteemed framers of our constitution included “free’ and “compulsory” education for the children as a very humble part of social vision. *Devesh Sharma vs union of India and ors.* Numbered Civil Appeal no.5068 of 2023 (Arising out of special leave petition (c) no.20743 of 2021) decided on 11-08-2023 by a division bench consisting of Justice. Aniruddha Bose and Justice. Sudhanshu Dhulia discusses deeply about the eligibility of B.Ed. graduates for the post of primary school teachers. It also discusses about the validity of notification dated 28-06-2018 by the National Council for Teachers Education (NCTE) and the notification dated 11-01-2021 by the Rajasthan State Board of Secondary education. This ruling navigates through the significance of the quality of education, concurrently addressing the mandated free and compulsory education outlined in the Right to Education Act of 2009.

BACKGROUND:

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The crux of the dispute revolves around the notification issued on 28-06-2018 by the National Council for Teachers Education (NCTE). This notification declared the eligibility of B.Ed. degree holders to apply for the position of primary school teachers for classes I to V. The legal contention arose when the Rajasthan State Board of Secondary Education, through a notification dated 11-01-2021, specifically excluded B.Ed. degree holders from participating in the Rajasthan Teachers Eligibility Test (RTET Level-1).

In response to the Rajasthan state government's notification, Devesh Sharma, a B.Ed. degree holder, filed a petition before the Rajasthan High Court seeking to annul the notification dated 11-01-2021. Conversely, holders of diplomas in Elementary Education (D.El.Ed.) were dissatisfied with the notification dated 28-06-2018, prompting them to file a writ petition before the Rajasthan High Court challenging the legality of said notification. Similar petitions were filed by aggrieved parties in Bihar and U.P., requesting a stay on the implementation of the notification issued on 28-06-2018.

The Rajasthan High Court deemed the notification dated 28-06-2018 as legally invalid, ruling that B.Ed. degree holders were unqualified for the position of primary school teachers. Subsequently, an appeal was filed before the Hon'ble Supreme Court.

ISSUE RAISED:

1. Whether NCTE was right in including B.Ed. qualification for appointment to the post of primary school teacher (level-1)?
2. Whether the state of Rajasthan erred by not calling the application for B.Ed. qualified candidates in its notification dated 11-01-2021 for Rajasthan Teachers Eligibility test(RTET Level-1)?

PETITIONERS CONTENTION:

The petitioners vehemently contested the judgment handed down by the Rajasthan High Court and staunchly supported the validity of the notification issued on 28-06-2018. Their argument centred on the premise that the said notification stemmed from a policy decision of the central government, and as such, the high court lacked the authority to intervene. Additionally, they asserted that a B.Ed. degree is a higher qualification than D.El.Ed., substantiating the eligibility of B.Ed. degree holders to compete for the position of primary school teachers.

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The petitioners underscored that the genesis of the notification dated 28-06-2018 could be traced back to a letter from the Commissioner of KVS and a meeting in the Ministry of Human Resource Development. These discussions addressed the inadequacy of diploma holders in Elementary Education to serve as primary school teachers in KVS Schools. Consequently, the petitioners contended that the notification was a manifestation of public policy by the central government, emphasizing the high court's lack of jurisdiction to interfere.

In light of these arguments, the petitioners strongly asserted that the Rajasthan State government erred in omitting B.Ed. degree holders from the notification dated 11-01-2021 for RTET Level-1 exams.

RESPONDENTS CONTENTION:

The respondents argued that the initial notification dated 23-08-2010, which outlined the requisite qualifications for teachers at both the primary and upper primary levels, did not explicitly state that B.Ed. degree holders were eligible for teaching at the primary level. They further contended that the D.El.Ed. course specifically focuses on primary level teaching, highlighting a distinct pedagogical approach compared to the broader B.Ed. degree program. The syllabus of the B.Ed. degree is primarily designed to address the needs of upper primary classes, establishing a clear distinction between the two qualifications. According to the respondents, B.Ed. degree holders lack the qualifications to effectively teach primary classes.

Moreover, the respondents emphasized that the notification dated 28-06-2018 underscores this distinction by stipulating that B.Ed. degree holders "shall mandatorily undergo a six-month bridge course in elementary education recognized by NCTE within two years of such appointment." Allowing B.Ed. degree holders to instruct primary classes, the respondents argued, would compromise the quality of education, constituting a serious violation of the right to education under Article 21A.

CASE ANALYSIS:

The court, after considering both arguments, derived six crucial insights. Firstly, it emphasized that free and compulsory education is integral to the societal vision. Citing the case of *Unni Krishnan J.P. versus State of Andhra Pradesh and Ors.* (AIR 1993

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SC 2178), it underscored the right of every child under the age of 14 years to receive 'free' and 'compulsory' education. To codify this, the 83rd constitutional amendment bill introduced elementary education as a fundamental right under Article 21A of Part III of the Constitution of India. However, it was noted that the bill was silent on the 'quality' of education. Recognizing that the impact of free and compulsory education hinges on its quality, the National Education Policy of 1986 was amended in 1992 to declare that such education should be of 'satisfactory quality.' Subsequently, the Right to Education Act of 2009 was enacted by Parliament, aiming not only to provide 'free' and 'compulsory' education but also to ensure 'quality' education through the establishment of standards for infrastructure and compliance with specified norms in schools.

Secondly, the court highlighted that compromising the quality of education also entails compromising the qualifications of teachers. Section 23 of the Right to Education Act stipulates that individuals meeting the qualifications set by an academic authority authorized by the central government are eligible for the appointment of primary school teachers. Subclause 2 of the section further empowers the central government to relax these minimum qualifications for a period not exceeding five years. The academic authority in question is the National Council for Teachers Education (NCTE), which, in its notification dated 23.08.2010, outlined the necessary qualifications for teachers in both primary and upper primary levels. Notably, this notification does not list B.Ed. as a qualification for the appointment of primary school teachers but prescribes Diploma in Elementary Education (D.El.Ed.) as the requisite qualification. Additionally, the Teacher Eligibility Test (TET) serves as an additional assessment of candidates' abilities and skills.

Thirdly, the court emphasized that a B.Ed. degree is not considered a superior qualification compared to a Diploma in Elementary Education (D.El.Ed.). Section 29 of the Right to Education Act delineates the curriculum and evaluation procedure for elementary education. Referring to Appendix 2 and 4 of the NCTE Regulations, 2009, the court noted that the 'Diploma in Elementary Education' (D.El.Ed.) is designed to prepare teachers for the elementary stage of education, while the B.Ed. degree is intended for upper primary or middle-level (classes VI-VIII), secondary level (classes IX-X), and senior secondary level (classes XI-XII). Especially in the *Dilip Kumar Ghosh and Others versus Chairman and Others*, the court emphasised, “.....For teaching in the primary school, therefore, one

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must know the child psychology and development of a child at a tender age. As already noticed, the candidates like the appellants who are trained in B.Ed. degree are not necessarily to be equipped to teach the students of primary class. They are not trained and equipped to understand the psychology of a child of tender age.” Other legal precedents, such as *P.M. Latha and Another versus State of Kerala and Others*, and *Yogesh Kumar v. Government of NCT, Delhi*, were cited to reinforce the position that B.Ed. does not equip candidates to teach at the primary level.

Fourthly, noting the pedagogical limitations of the B.Ed. degree for primary classes, the court observed that the notification urged teachers to undergo a six-month bridge course in elementary education within the first two years of their appointment. However, no such bridge course or training has been initiated or recognized by any academic authority. The court emphasized that there is no pressing need to include B.Ed. degree candidates who are not fully trained for teaching at the primary level, and this decision lacks a nexus with the objective of the Right to Education Act, which is to provide free, compulsory, and quality education. Therefore, the court concluded that this decision is arbitrary and unreasonable.

Fifthly, the court highlighted that judicial review becomes necessary when there is illegality, irrationality, or procedural impropriety, citing the case of *Council of Civil Service Unions v. Minister for the Civil Service*. It argued that the decision to include B.Ed. candidates is a policy decision of the central government, evident in the sequence of events following the letter from the Commissioner of KVS. While acknowledging that decisions on qualifications for specific classes fall under the purview of a competent academic authority, i.e., NCTE, the court asserted that, in this case, the decision is contrary to the act and goes against the fundamental rights enshrined in Article 21A of the Constitution. The inclusion of B.Ed. is seen as diminishing the quality of meaningful education, contradicting the mandate of providing free, compulsory, and quality education. Therefore, the government's decision goes against the provisions of the constitution.

Lastly, the court criticized the state of Rajasthan for issuing a notification in defiance of another notification issued by the NCTE, which is officially binding on the state. It emphasized that a statute or rule made by a competent legislature, even if unconstitutional, must be obeyed until declared otherwise (*State of Manipur &Ors. v. SurjakumarOkram&Ors.*).

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DECISION:

The Hon'ble Supreme Court of India held that the appeals are to be dismissed. The judgment pronounced by the Rajasthan High Court on 25.11.2021 is ratified, thereby nullifying the notification issued by the NCTE on 28.06.2018. Furthermore, all pending writ petitions are directed to be disposed of in accordance with this decision.

CONCLUSION:

Knowledge stands as a cornerstone for a tranquil existence in our contemporary, post-modern era. Its foundation, however, must be rooted in robust fundamentals, particularly emphasizing the early education of children. The imperative lies in ensuring that educational institutions steadfastly uphold the quality of instruction. Despite concerns raised about the unemployment of B.Ed. graduates, the government's paramount focus should be on what best serves the children's educational needs, rather than solely addressing welfare measures. The recent judgment underscores the urgency of addressing critical issues in the education sector. A significant point of contention revolves around the shortage of qualified candidates passing the Teacher Eligibility Test (TET). With a mere 6% to 16% success rate among TET examinees, it becomes evident that steps must be taken to enhance these figures. TET, being a prerequisite for elementary teacher qualification, necessitates a concerted effort from the government. This entails elevating the overall quality and standards of education, implementing mock tests, and establishing study centers to better prepare aspiring educators. Furthermore, the decision-making process demands a nuanced evaluation of the distinction between the educational impact of B.Ed. and Diploma in Elementary Education (D.El.Ed.) candidates on the impressionable minds of the youth. A commitment to impartiality and justice should guide these considerations. The government's responsibility lies in fostering an environment that not only cultivates knowledge but also ensures that the future custodians of education, our teachers, are well-equipped and qualified. It is through such dedicated efforts that we can aspire to create a society where the pursuit of knowledge paves the way for a harmonious and prosperous coexistence. Hence in the eyes of law, this a fair and just decision.

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