**IN THE HIGH COURT OF ALLAHABAD**

Civil Misc. Writ Petition No. 70682 of 2011

Decided On: 12.12.2011

Appellants: **Sarita Shukla and Others**  
**Vs.**  
Respondent: **State of U.P. and Others**

**Hon'ble Judges/Coram:**  
Sudhir Agarwal, J.

**JUDGMENT**

**Hon'ble Sudhir Agarwal, J.**

1. Heard Sri Agnihotri Kumar Tripathi for the petitioner and Sri K.S.Kushwaha, learned Standing Counsel for all the respondents.

2. Since a pure legal submission was advanced, learned Standing Counsel stated that he does not propose to file counter-affidavit and matter may be heard on merit. I proceed to decide the matter accordingly.

3. The learned counsel for petitioner submitted that advertisement in question to the extent it provides that a candidate should restrict his application for only five districts in U.P. in his/her choice is illegal and ultra vires of the statute.

4. The facts in brief are quite simple. An advertisement has been issued on 29/30.11.2011 with the heading "Selection of Training-Teachers for Primary Schools of U.P. Basic Education Board". While inviting application from eligible and qualified candidates, it provides that one candidate may submit his application for any of the five districts and not more than that. The advertisement contains other details of educational and training qualification, age, nationality and residence, reservation, marital status, character, procedure for submission of the application form, application fee, procedure for selection, six months special training and then clause 10 of the advertisement talks of substantive appointment.

5. Learned counsel for the petitioners contended that aforesaid advertisement in so far as restricts a candidate to submit application only in five districts is per se irrational, illegal and arbitrary, hence violative of Articles 14and 19 of the Constitution. He contended that there is no logic or reason for confining a candidate to submit application only in five districts and the aforesaid restriction is wholly irrational, has no nexus with the object sought to the achieved and, therefore, is violative of Article 14. He further submitted that it also does not conform with the procedure prescribed in Rule 14(1) of U.P. Basic Education (Teachers) Service Rules, 1981 (hereinafter referred to as "Rules 1981") which talks of district-wise selection and therefore Clause 7 of advertisement as also opening para that one applicant can apply for only five districts is ultra vires of the aforesaid provision of the statute. He lastly submitted that for the purpose of providing six months special training, it is always open to the respondents to adopt any valid procedure but if for the purpose of appointment the said advertisement is to be acted upon, it would be illegal and ultra vires being contrary to the relevant statutory provisions namely 'Rules, 1981.

6. Sri Kushwaha on the contrary submitted that the advertisement has been issued in the light of and consequence to Regulations framed by "National Council for Teachers Education Regulations" notified in Government of India Gazette dated 29.7.2011. It is said that no further advertisement is to be made for making appointment on the post of Assistant Teacher in the Primary Schools maintained by Board and in fact the persons selected pursuant to the impugned advertisement shall be given six months training and on completion thereof shall be issued letters of appointment straightway without any further process of recruitment.

7. In the above backdrop, this Court proceed to examine correctness of advertisement to the extent, impugned in this petition.

8. Before proceeding further it is necessary to clarify some aspect of the matter. One is regarding minimum qualification of teachers and quality of teacher's training constituting essential eligibility for a person before claiming appointment on the post of Assistant Teacher in Primary School; and second, relates to actual process of recruitment and appointment under relevant statutory rules relating to the service concerned.

9. There are three statutes relevant in this matter. One is "Uttar Pradesh Basic Education Act, 1972" (hereinafter referred to as "Act 1972"), Second is "National Council For Teacher Education Act, 1993" (hereinafter referred to "Act 1993") and third is "Right of Children to Free and Compulsory Education Act, 2009" (hereinafter referred to as "Act 2009").

10. Prior to the enactment of Act 1972, primary education in the State was in quite disorganized manner. There were two types of Primary Schools running in the entire State. One owned and managed by local bodies and rests were private institutions. In the rural areas, primary schools of first category were being managed by Zila Parishads and in urban areas they were being run by Municipal Boards and Mahapalikas etc. The funds to these schools were the responsibility of concerned local bodies. Privately managed Primary Schools were also having two types of categories, one which were solely managed by private bodies from their own resources and rest were those which were getting some kind of financial grant/assistance from State Government through Education Department or some other Departments like Harijan and Social Welfare etc.

11. Article 41 in Part IV (Directive Principles of State Policy) provides that the State shall, within the limits of its economic capacity and development, make effective provision for securing right to work, to education etc. but as a matter of fact effective steps in this regard were wanting. Similarly Article 45 provides that State shall endeavour to provide, within a period of ten years from the commencement of Constitution, free and compulsory education for all children until they complete the age of fourteen years but as a matter of fact here also much remain to be done on the part of the State. In early seventies, to bring uniformity in Primary schools run by Local Bodies, considering day to day deteriorating conditions of such schools, a public demand through their representatives was raised requiring State to take immediate steps for improving primary education in the State and hence with an objective of reorganisation, reformation and expanding elementary education, State Government came forward to take over control of such schools, as were being run by Local Bodies into its own hands. It enacted U.P. Basic Education Ordinance 1972 giving effect to its provisions w.e.f. Educational Session 1972-73. The said ordinance was substituted by Act 1972. It provided for establishment of U.P. Board of Basic Education (in short the 'Board') and by virtue of Section 9, all the employees of Primary Schools maintained by local bodies stood transferred and became employee of the Board. Section 19 confers power upon the State Government to frame rules for the purpose of carrying out Act 1972 in general and in particular the recruitment and conditions of service of the persons appointed to the post of officers, teachers and employees under Section6 and 9 and also in respect to such staff teaching and non teaching of other basic schools recognized by the Board. The provisions of Act 1972 was given overriding effect over otherwise provisions in U.P. Panchayat Raj Act, 1947, U.P. Municipalities Act, 1916 and U.P. Municipal Corporation Act, 1952 by inserting Section 13A w.e.f. 21st June, 1979.

12. All the basic schools virtually in the State of U.P., now, if recognized by the Board, have to conform to the provisions of Act 1972 and the rules framed thereunder.

13. In respect to teachers of Primary Schools maintained by the Board, Rules 1981 have been framed, published in U.P. Gazette (Extra Ordinary) on 3.1.1981. The application of these rules is provided in Rule 3, as under:

Extent of application.--These rules shall apply to:

(i) All teachers of local bodies transferred to the Board under Section 9 of the Act; and

(ii) all teachers employed for the Basic and Nursery Schools established by the Board."

14. At this stage, I defer further discussion of the aforesaid Rules and find it appropriate to come to the provisions of Act 1993. This is a Central Act enacted by Parliament and after receiving assent of the President on 29.12.1993 was published in the Gazette of India, (Extra.) Part II, Section 1, dated 30.12.1993. Section 1(3)provides that Act 1993 shall come into force on such date as the Central Government may appoint by notification in initial gazette. Pursuant thereto the Central Government by notification dated 1.7.1995 appointed the same day i.e. 1.7.1995 for enforcement of Act 1993.

15. The Act 1993 was enacted with an objective of achieving planned and coordinated development for teacher education system throughout the country, the regulation and properly maintenance of norms and standards in teacher education system and for matters connected therewith.

16. In State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and others, : (2006) 9 SCC 1, Apex Court observed that considering the objective and preamble of the Act and various provisions, it is clear that the aforesaid Act of Parliament is referable to Entry 66 of List I of Schedule VII of the Constitution and to the extent the field is occupied by Act 1993 the State Legislature cannot encroach upon the said field.

17. The Act 1993 contemplates establishment of a council called as "National Council For Teacher Education" (hereinafter referred as "NCTE") and its functions are enumerated in detail in Section 12 of Act 1993. It clearly talks of planned and co-ordinated development of teacher education, and determination and maintenance of standards for teacher education. It is in this regard various subjects and functions of NCTE have been enumerated in Section 12 from Clauses (a) to (n) which reads as under:

(a) undertake surveys and studies relating to various aspects of teacher education and publish the result thereof;

(b) make recommendations to the Central and State Governments, Universities, University Grants Commission and recognised Institutions in the matter of preparation of suitable plans and programmes in the field of teacher education:

(c) co-ordinate and monitor teacher education and its development in the country;

(d) lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in schools or in recognised institutions.;

(e) lay down norms for any specified category of courses or training in teacher education, including the minimum eligibility criteria for admission thereof, and the method of selection of candidates, duration of the course, course contents and mode of curriculum;

(f) lay down guidelines for compliance by recognised institution for starting new courses or training, and for providing physical and instructional facilities, staffing pattern and staff qualifications;

(g) lay down standards in respect of examinations leading to teacher education qualifications, criteria for admission to such examinations and schemes of courses or training;

(h) lay down guidelines regarding tuition fee and other fee chargeable by recognised institutions;

(i) promote and conduct innovation and research in various areas of teacher education and disseminate the results thereof;

(j) examine and review periodically the implementation of the norms, guidelines and standards laid down by the Council, and to suitably advise the recognised institutions;

(k) evolve suitable performance appraisal systems, norms and mechanisms for enforcing accountability on recognised institutions;

(l) formulated schemes for various levels of teacher education and identify recognised institutions and set up new institutions for teacher development programmes;

(m) take all necessary steps to prevent commercialisation of teacher education; and

(n) perform such other functions as may be entrusted to it by the Central Government."

18. The Act 1993 contemplates recognition and permission of NCTE for running courses or training in teacher education. Section 17 provides, if course or training in teacher education has been imparted or obtained in violation of the provisions of the Act, such course or training shall not be treated a valid qualification for the purpose of employment under Central Act, State Government, University, any School/College or other educational body aided by Central or the State Government. The restriction imposed by Section 17(4) is only to the extent that a training or course in teacher education which does not conform to the various provisions of Act 1993 shall not be a valid qualification for employment as stated above, and nothing more and nothing less. The entire Act 1993 does not talk of the manner in which appointments of teachers shall be made, the eligibility to be laid down for appointment of teachers in Primary Schools etc. except qualification. It is confined to the standard and quality of teachers education. In this regard NCTE obviously can lay down minimum qualification which may be prescribed for appointment of a teacher but it does not control thereafter the mode, manner and other relevant provisions regarding recruitment and appointment of such teachers.

19. In State of U.P. and Others v. Bhupendra Nath Tripathi and others,  : 2010 (5) ESC 630, the Apex Court has clearly observed in para 24 that NCTE can lay down minimum qualification for appointment of teacher by competent appointing authority or the authority competent to frame rules and regulations may lay down any qualification over and above the minimum qualification prescribed by NCTE. Para 24 of the judgment in Bhupendra Nath Tripathi (supra) reads as under:

The is no quarrel with the proposition that the State in its discretion is entitled to prescribe such qualifictions as it may consider appropriate for candidates seeking admission into BTC course so long as the qualifications so prescribed are not lower than those prescribed by or under the NCTE Act. The State can always prescribe higher qualification,

20. Meaning thereby requirement for appointment of a teacher, as contemplated by Act 1993, is that the teacher education must be such as is in conformity with Act 1993 and that the teacher must possess minimum qualification before he is considered for appointment and then on, Act 1993, in my view, stops from that stage and onwards.

21. If I take up the case in hand, the matter would thereafter be governed by Act 1972 and the Rules 1981. The qualification required to be possessed by a teacher for appointment in a Primary School is provided in Rule 8 of Rules 1981. This rule has undergone amendments from time to time broadly. Initially it provides for a qualification up to High School and training qualification like Basic Teachers Certificate, Junior Teacher Certificate, Certificate of Teaching etc. Later on amendments were made which basically increase educational qualification of High School to Intermediate and then to Graduation but so far as training qualification is concerned, the same continue to be as such. For the first time, an amendment was made in 2004 by adding "Special Basic Teachers Certificate Course" as one of the training qualification under Rule 8(1). Subsequently another amendment came to be made by notification dated 25.11.2006 in Rule 8(1). To this extent there is no dispute among the parties.

22. The large scale employment in Primary Schools maintained by Board constitute a major chunk of litigation before this Court in the last 20 years and more. The reason being the large number of schools and quantum of employment generated thereby.

23. The Basic Education authorities, time and against have also contributed a lot, either by their mindless activities or deliberate and otherwise illegal acts. In fact after the judgement of Apex Court in Mohini Jain v. State of Karnataka,  : AIR 1992 SC 1858 and Unni Krishnan J.P. v. State of A.P., : AIR 1993 SC 2178 and the cases followed thereafter observing Primary Education to children from age of 6 to 14 years as a constitutional right, efforts were made by Governments, Central and State both, to expand primary education by establishing primary schools at Village Panchayat level in a major way and this really give a boomerang to number of schools as also corresponding increase in number of teachers requiring to man these institution.

24. The Court has been informed at the Bar that at present the number of primary schools in the State of U.P. are more than one lac and twenty five thousands which obviously mean that number of posts of teachers would also exceed the said figure.

25. It would be appropriate at this stage to remind that Parliament also recognized above right by inserting Article21A in the Constitution i.e. 'Right to Education', by Constitution (86th Amendment) Act, 2002, and, simultaneously inserting Clause (k) in Article 51A vide Section 4 of Constitution (86th Amendment) Act, 2002. The Parliament also in furtherance of the above constitutional provisions, come forward by enacting Act 2009 published in Gazette of Indian on 27.8.2009. By virtue of Section 1(3) of Act 2009, it has been given effect from 1.4.2010.

26. One of the major change it has brought, besides other, is that no Primary School other than a school established, owned or controlled by the appropriate Government or local body after commencement of 2009 Act shall be established or function without obtaining a certificate of recognition from such authority, as may be prescribed. For the purpose of seeking recognition, the school has to conform the norms and standard specified in Section 19 of Act 2009 read with the schedule appended thereto. The Act 2009, vide Section 23(1), also provides that any person possessing such minimum qualification, as laid down by an academic authority authorised by the Central Government, by notification, shall be eligible for appointment as a teacher. Section 23 (1)therefore also talks of only eligibility for appointment as teacher but does not confer any corresponding right upon a person to claim appointment as teacher merely if he fulfills the qualification prescribed under Section (1) of Section 23, Simultaneously there is no corresponding obligation for offering appointment to such person as teacher. The power of State Legislature vide Entry 25 List 3 Schedule VII of the Constitution therefore to the extent it make provisions for governing primary schools and providing provisions governing recruitment and conditions of service of teachers in such school is not curtailed in any manner.

27. Now, I come to the basic provision made by NCTE which has been referred to by Sri Kushwaha, learned counsel appearing for respondents. The Department of School Education and Literacy, Ministry of Human Resource Development, Government of India by notification No. S.O. 750 (E) dated 31.3.2010 authorised NCTE as academic authority to prescribe minimum qualification for appointment of a teacher. Consequently, with reference to Section 23(1) NCTE issued notification dated 23.8.2010 laying down minimum qualifications for a person to be eligible for appointment as a teacher in Class 1 to 8 in a school referred to in Clause (n) of Section 2 of 2009 Act.

28. Section 2(n) of 2009 Act defines "School" for the purpose of 2009 Act and reads as under:

school" means any recognised school imparting elementary education and includes--

(i) a school established, owned or controlled by the appropriate Government or local authority;

(ii) an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;

(iii) a school belonging to specified category; and

(iv) an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority;"

29. The minimum qualification prescribed in notification dated 23.8.2010 are in two parts, one for Junior Primary School namely Classes I to V and another is for Senior Primary School i.e. Class VI to VIII. Besides educational qualifications, for the first time, it also introduced eligibility qualification of teacher i.e. Eligibility Test i.e. passing of Teachers Eligibility Test (in short 'T.E.T.') conducted by concerned Government in accordance with the guidelines laid down by NCTE. Para 3 of notification dated 23.8.2010 provides for compulsory training qualification and it reads as under:

Training to be undergone.--A person-

(a) with BA/B.Sc. with at least 50% marks and B.Ed qualification shall also be eligible for appointment for class I to V upto 1st January, 2012, provided he undergoes, after appointment, and NCTE recognized 6-month special programme in Elementary Education.

(b) with B.Ed (Special Education) or B. Ed (Special Education) qualification shall undergo, after appointment, an NCTE recognized 6-month special programme in Elementary Education."

30. NCTE issued a notification on 29.7.2011 in purported exercise of powers under Section 23 of 2009 Act. The aforesaid notification has amended notification dated 23.8.2010. Sub-para (i) and (ii) of Para 1; para 3 and para 5 have been substituted in entirety. For ready reference, the amended relevant provisions i.e. para 1 (i) and (ii) and para 3 reads as under:

1. Minimum Qualification:

(i) Classes I-V

(a) Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education (by whatever name known)

OR

Senior Secondary (or its equivalent) with at least 45% marks and 2-year Diploma in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure), Regulations, 2002.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (B.El.Ed)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Education (Special Education)

OR

Graduation and two year Diploma in Elementary Education (by whatever name known)

AND

(b) Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

(ii) Class VI-VIII

(a) Graduation and 2-year Diploma in Elementary Education (by whatever name known)

OR

Graduation with at least 50% marks and 1-year Bachelor in Education (B.Ed.)

OR

Graduation with at least 45% marks and 1-year Bachelor in Education (B.Ed.), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor in Elementary Education (B.El.Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year B.A./B.Sc.Ed. or B.A.Ed./B.Sc.Ed.

OR

Graduation with at least 50% marks and 1-year B.Ed. (Special Education)

AND

(b) Pass in Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose."

31. Para 5 of notification dated 29.7.2011 is a kind of saving clause and provides that if an advertisement initiating process of appointment of teachers has already been issued before 29.7.2011, such appointments may be made in accordance with NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 (as amended from time to time).

32. Sub para (b) of para 5 provides that minimum qualification prescribed by notification dated 29.7.2011 shall apply to all teachers except the teacher for Physical Education, for which NCTE Regulation dated 3.11.2001, as amended from time to time, shall continue to apply. Further regarding teachers of Art Education, Craft Education, Home Science, Work Education, etc. the existing eligibility norms prescribed by the State Government and other school managements shall be applicable till such time the NCTE lays down the minimum qualification in respect of such teachers.

33. The above discussion makes it beyond doubt that the above notifications issued by NCTE lays down minimum qualification, which would make a person eligible for appointment as a teacher in Primary Schools but the manner in which recruitments for appointment on the post of teacher in Primary School shall be made, and, their terms and conditions of service, for the same, aforesaid notification does not provide anything at all and hence in this regard Rules 1981 shall hold the field and would continue to apply.

34. Sri Kushwaha, learned Standing Counsel vehemently contended that advertisement dated 29/30.11.2011 contemplates requisite six months training contemplated in para 3 of Notification dated 29.7.2011 and for that purpose respondents authorities cannot be compelled to go to observe procedure prescribed in Rule 14(1) of Rules 1981 hence scrutiny of advertisement in question cannot be made with reference to Rules 1981. To the extent the argument is limited for making selection of persons for providing six months training contemplated in para 3 of the notification dated 29.7.2011, this Court Court finds no hesitation in upholding the contention of Sri Kushwaha. The respondents need not go to follow the procedure prescribed in Rule 14(1) of Rules 1981 for the purpose of selecting persons for six months Special training and there is no difficulty.

35. If that would have been the matter, it could have rest thereat. But then the clause assailed by the petitioners has to be examined in the light of the provisions of the Constitution namely Article 14. NCTE does not lay down the manner in which any person would be selected for undergoing training in six months contemplated in para 3 of the notification dated 29.7.2011 except of providing certain relaxation for reserved category candidates which is not the matter of dispute in the present case. It is the Secretary of the Board under whose authority the advertisement in question has been published containing a condition restricting a candidate from submitting his application in more than five districts.

36. Admittedly, selection is not being made for any individual Primary School or Primary Schools constituted in a particular area namely local area or the district. If this Court treat the advertisement in question that it confine only for the purpose of selecting candidates to undergo training contemplated in para 3 of NCTE notification dated 29.7.2011, the Court finds no rationality or logic by confining a candidate to apply only for five districts and not more than that. Paras 7 and 8 of the advertisement shows that every candidate has to apply separately in different districts. Meaning therefore the selection is confined to a particular district. The District constitute a unit of selection. The candidate may be resident of any district in the State of U.P. but he may choose the district for submitting his application on his own and submit application for selection for special training pursuant to the said advertisement. However, out of the existing 75 district in the State of U.P. a candidate has been restricted for submitting applications in only five districts. What is the criteria or principle behind the condition of restricting a candidate from applying for more than five districts is not discernible from the entire advertisement. When the selection is to be made on District Level basis, if it is possible for a candidate, why he cannot apply in as much as district as he can is beyond comprehension.

37. One of the possible ground suggested is if the candidate are permitted to apply in all the districts irrespective of any restriction with regard to number of districts, quantity of applications may become unmanageable and therefore for practical convenience, restriction has been made that a candidate should not apply for more than five districts. But the restriction to five districts and not more or less thereto is not understandable. It is not commensurating to the Commissionerates/Divisions or otherwise but appears that just a figure of five districts taken from Hat has been mentioned in the advertisement, impugned in this case. With regard to selecting number of districts as five in the above advertisement no rationality or logic could be provided by the respondents. One can understand if the selection would have been made on Provincial level then there cannot be any restriction on number of districts unless so provided by some Statute. The selection could have been made at State level and thereafter candidates could have been allocated to different district to undergo training in the concerned institutions but the respondents have adopted a totally different procedure by restricting number of applications to only five districts which is wholly irrational, arbitrary and hence violative of Article 14 of the Constitution.

38. It is well settled that in the matter of selection and appointment etc. the policy decisions can be taken by the State and the same are not lightly to be interfered by the Court in judicial review but if such policy decision is ex facie irrational, illogical and arbitrary, it can be axed by the Courts while going for judicial review. The respondents in the absence of the counter-affidavit had the opportunity to show deliberation available on record, if any, made while formulating the above policy to show justification or rationality for restricting a candidate in applying in only five districts but that option has not been availed by the respondents though they have opportunity to do so. No such request was made. It appears that on this aspect there is not even deliberation on the part of the respondents. In a sheer momentary flash this condition has been made part of the process of selection without applying mind to its logic and rationality. It is also not discernible as to whether any rational object the respondents intent to achieve by making this restriction. The said condition also fails ex facie to show any nexus with the undisclosed objectives sought to be achieved. It is well settled that any policy decision, which is ex facie arbitrary, irrational or illogical is violative of Article 14 and cannot sustain.

39. I need not burden this judgment with catena of authorities on this aspect since the law is now well settled. The aforesaid condition, therefore, is difficult to sustain and has to be struck down accordingly.

40. Sri Kushwaha, learned counsel for the respondents drew my attention to para 10 of the advertisement which provides that those candidates who shall successfully complete training of six months, be appointed on substantive basis on the post of teacher following the procedure prescribed in Rules 1981, as amended by 12th amendment of 2011. To my mind, para 12 of the advertisement nowhere contemplate or empower respondents in issuing straightway, appointment letter as soon as a candidate complete special training of six months but makes it very clear that Rules 1981 thereafter shall be followed for making substantive appointment which include within itself the procedure prescribed in Rule 14(1) of Rules 1981. On a query made, Sri Kushwaha stated as per his instructions no further advertisement as contemplated in Rule 14(1) of Rules 1981 is contemplated and appointments shall be made straightway by issuing letter of appointment by competent appointing authority i.e. District Basic Education Officer. I do not find any reason to go by the above statement made on behalf of the respondents and instead find it sufficient to make it clear and beyond doubt that respondents before issuing letters of appointment, appointing any person as teacher in a Primary School, shall without fail, observe and follow strictly procedure prescribed in Rules 1981 including that of Rule 14(1) so long it continue to operate, and only thereafter appointment shall be made and not otherwise. It is worthy to notice at this stage that repeatedly this Court has observed that an appointment to the post of teacher in a Primary School cannot be made without observing the procedure laid down in Rules 1981.

41. The writ petition, in view of the above discussion, succeed and is allowed. The impugned advertisement dated 30.11.2011 in so far it restricts a candidate in submitting application only for five districts is hereby quashed.

42. Since as a result of quashing of the aforesaid condition, the candidates have necessarily to be given opportunity to make/submit applications for various districts, the respondents shall issue a fresh advertisement consistent with the directions as above. It is also and further directed that after completion of special training of six months, no appointment on the post of teacher in Primary Schools governed by Rules 1981 shall be made without following the procedure prescribed therein including rule 14(1) as amended from time to time so long it is operating.

43. The Court finds that due to unmindful acts of the respondents, the candidates like petitioners aspiring for appointment in primary schools in large number are running from pillar to post and hence harassed. Hence, the petitioners are also entitled to cost which is quantified to Rs. 10,000/-.