



2026:AHC:189900

A.F.R.
Reserved

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 9303 of 2026

Rakesh Kumar and 12 others

.....Petitioner(s)

Versus

State of U.P. and 4 others

.....Respondent(s)

Counsel for Petitioner(s)	: Akhil Kumar Singh, Ami Tandon, Ichhvaku Pratap Shahi
Counsel for Respondent(s)	: Bipin Bihari Pandey, C.S.C., Shivendra Kumar Singh

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. Heard Mr. Ami Tandon, learned counsel for the petitioners, Mr. Bipin Bihari Pandey, learned counsel for the respondent nos.2&5, Mr. Shivendra Kumar Singh, learned counsel for the respondent no.3 and Mr. Shailendra Singh, learned Standing Counsel for the State-respondents.

2. The present writ petition has been instituted, *inter alia*, seeking quashing of Instruction No. 2 contained in the General Instructions forming part of the advertisement dated 13.06.2026, issued by the Office of the Secretary, Uttar Pradesh Basic Education Board, Prayagraj, insofar as it pertains to the petitioners. By the said instruction, candidates intending to participate in the selection process for the posts advertised thereunder have been required to mandatorily annex with their applications the contract letter/order issued by the competent authority in respect of their engagement as Special Educators on contractual, daily-wage or outsourcing basis. A further prayer has been made for issuance

of a writ of mandamus directing the respondents to permit the petitioners to participate in the selection process pursuant to the aforesaid advertisement dated 13.06.2026, by accepting their applications and permitting them to appear before the Screening Committee, so that their eligibility and candidature may be duly considered for appointment against the vacant posts of Special Educators advertised thereunder. The petitioners have also sought quashing of the orders dated 15.06.2026 passed by the District Basic Education Officer, Maharajganj, whereby the representations preferred by the petitioners seeking regular selection/appointment to the post of Special Educator, in purported compliance with the directions issued by the Division Bench of this Court in the Special Appeal preferred by them, have been rejected.

3. Learned counsel for the petitioners, while placing the foundational facts before the Court, submits that the thirteen petitioners have been engaged in the implementation of the Integrated Education for Disabled Scheme in the State of Uttar Pradesh. The said scheme, introduced pursuant to Government Orders issued by the State Government, is being implemented through the State Project Director, Uttar Pradesh Education for All Project Board, Lucknow, who has been impleaded as respondent no. 3.

4. It is submitted that the scheme is intended for children with disabilities between the ages of 6 and 14 years and seeks to facilitate their education within the mainstream school system by providing instruction in regular classrooms. For the effective implementation of the scheme at the grassroots level, the State has provided for the engagement of Itinerant Teachers/Resource Teachers possessing the requisite specialised training to educate children with various categories of disabilities. Such personnel are selected at the district level in accordance with the prescribed procedure.

5. Learned counsel submits that all thirteen petitioners possess the requisite academic and specialised professional qualifications to impart education to children with physical, intellectual, and other specified

disabilities. Each petitioner is a graduate and holds a recognised teacher-training qualification in the field of special education. Their specialised qualifications, however, differ according to the categories of disabilities in respect of which they have received training.

6. Petitioner nos. 1, 3, and 5 possess a Diploma in Special Education (Hearing Impairment). Petitioner nos. 2 and 4 possess a Diploma in Hearing, Learning and Speech. The remaining petitioners, namely petitioner nos. 6 to 13, possess the qualification of B.Ed. (Special Education). It is accordingly submitted that the petitioners possess specialised qualifications specifically designed to enable them to educate children with different categories of disabilities and have, in that capacity, been serving as Special Educators/Resource Teachers under the aforesaid scheme.

7. Learned counsel for the petitioners further submits that each of the thirteen petitioners was selected at the district level for engagement as an Itinerant Teacher/Resource Teacher in District Maharajganj. The dates of their initial appointment, in the order of petitioner nos. 1 to 13, are 17.11.2005, 09.09.2010, 23.09.2011, 03.08.2006, 03.08.2006, 09.09.2010, 23.09.2011, 09.09.2010, 03.08.2006, 09.09.2010, 09.09.2010, 09.09.2010 and 09.09.2010, respectively. Pursuant to their selection, formal engagement/appointment orders were issued in favour of the petitioners.

8. It is submitted that the engagement of the petitioners was initially made for one academic session, commencing in July of the relevant year and continuing up to the month of May of the succeeding year. Upon satisfactory completion of the academic session for which they had been engaged, their engagements were successively renewed for each subsequent academic session. Thus, the petitioners continued to discharge their duties uninterruptedly from year to year, save for the intervening month of June, which constituted the period between two academic sessions. Each renewal was founded upon the satisfactory

services rendered by the concerned petitioner during the preceding academic session.

9. The petitioners accordingly continued to function up to May, 2019, on the basis of the renewal granted for the academic session 2018-19, and were awaiting renewal of their respective engagements for the academic session 2019-20.

10. It is further submitted that, on 24.06.2019, the State Project Director, Uttar Pradesh Education for All Project Board, Lucknow, respondent no. 3, issued a circular addressed to the District Basic Education Officers of various districts in the State, providing for renewal of the engagement of Itinerant Teachers and Resource Teachers for the academic session 2019-20. Under the said circular, the renewed engagements were to be for a period of eleven months commencing from July, 2019, upon payment of consolidated monthly remuneration of ₹15,950/-. The District authorities were further directed to complete the process of renewal on or before 30.06.2019.

11. Pursuant thereto, on 25.06.2019, the District Basic Education Officer, Maharajganj, issued a communication to all the Block Education Officers of the district requiring them to undertake an assessment of the work and performance of the Itinerant Teachers/Resource Teachers working within their respective development blocks and to furnish the requisite report for consideration of their renewal for the academic session 2019-20.

12. In compliance with the aforesaid directions, the concerned Block Education Officers, as well as the District Basic Education Officer, Maharajganj, submitted work-experience certificates and recommendations in favour of renewal of the petitioners' engagements for the academic session 2019-20. It is, therefore, submitted that the petitioners had not only rendered continuous services over several academic sessions but their performance had also been assessed and found satisfactory by the competent authorities.

13. Notwithstanding the aforesaid facts and the recommendations for renewal, the petitioners were, to their utter surprise, excluded from the subsequent renewal process. By order dated 27.07.2019 passed by the District Basic Education Officer, Maharajganj, the engagements of only twelve Itinerant Teachers/Resource Teachers in the district were renewed, whereas the engagements of approximately seventeen similarly situated Itinerant Teachers/Resource Teachers, including the petitioners, were not renewed. The petitioners contend that their exclusion from the renewal process, despite their long and satisfactory service and the favourable recommendations submitted by the authorities concerned, was wholly arbitrary and without any discernible or lawful basis.

14. Aggrieved by the failure of the respondents to renew their engagements for the academic session 2019-20, the petitioners approached this Court by filing Writ-A No. 12972 of 2019, Rakesh Kumar and 16 Others v. State of U.P. and 5 Others. The said writ petition came to be dismissed by order dated 08.07.2025, principally relying upon the observations of the Hon'ble Supreme Court in Director, Institute of Management Development, U.P. v. Smt. Pushpa Srivastava, AIR 1992 SC 2070, wherein it was held that, in the case of a contractual appointment, an employee has no right to continue in service beyond the period for which the appointment was made and that mere continuation beyond the stipulated period does not confer any right upon such employee to claim renewal or regularisation of the engagement.

15. Learned counsel for the petitioners submits that the aforesaid decision was rendered in the context of the contractual tenure involved therein and that the petitioners' case, founded upon their successive renewals, long and satisfactory service, the recommendations of the competent authorities, and the subsequent policy governing the engagement of Special Educators, requires consideration in the light of the peculiar facts and circumstances obtaining in the present case.

16. The petitioners, being aggrieved by the aforesaid order, preferred Special Appeal Defective No. 607 of 2025, Rakesh Kumar and 9 Others

vs. State of U.P. and 5 Others. The Division Bench, vide order dated 02.12.2025, having regard to the distinctive and significant role discharged by Special Educators in facilitating the education and integration of differently abled children, directed the petitioners to submit a proper application before the competent authority setting forth their claim for regular appointment in terms of the policy then prevailing. The Division Bench further directed that such claim be considered by the competent authority on its own merits, as an interim measure, in accordance with the applicable policy and the facts and circumstances of the case.

17. In another connected matter, namely Special Appeal Defective No. 62 of 2026, Ashutosh Kumar Pandey and 2 Others v. State of U.P. and 5 Others, an identical order was passed by the Division Bench of this Court on 05.02.2026. Pursuant to the aforesaid directions, the petitioners herein also preferred their respective representations before the competent authority, laying claim to regular appointment in terms of the prevailing Government policy. The said representations, however, came to be rejected by the competent authority, giving rise to the present proceedings.

18. Learned counsel appearing for the petitioner submits that the issue relating to the appointment of Special Educators is presently engaging the attention of the Hon'ble Supreme Court in **Writ Petition (Civil) No.132 of 2016 (Rajneesh Kumar Pandey and Others v. Union of India and Others)**. In the said proceedings, by order dated 03.02.2026, the Hon'ble Supreme Court directed the candidates to appear before the Screening Committee and further directed that all candidates, whether appointed prior 20 February 2016 or subsequent thereto, who fulfil the eligibility criteria for appointment as Special Educators, shall be considered by doing away with the aforesaid cut-off date.

19. Thereafter, by order dated 05.05.2026, the Hon'ble Supreme Court issued further directions concerning the filling up of 4,900 vacant posts of Special Educators in the State of Uttar Pradesh. The relevant portion

of the order dated 05.05.2026, as contained at pages 234–235 of the record, reads as under:-

“7. We are informed that presently approximately 4,900 posts of special educators are vacant.

8. We direct the State of Uttar Pradesh to issue an advertisement in two "Hindi" daily newspapers having wide circulation in the State inviting applications from candidates who have been working as special teachers on contract basis. All candidates who respond to such advertisement shall be considered.

9. If any candidate who has been appointed to work as a special educator through an outsourcing agency shall also been considered.

10. Since it is the stand of the State that it requires all the special educators to clear the Teachers Eligibility Test (TET), we direct that clearance of TET shall be regarded as a desirable qualification in light of the affidavit filed by the RCI on the previous occasion.

11. The Screening Committee while considering the aspiring candidates, i.e., the special teachers appointed on contract, shall bear in mind the order dated 7th March, 2025.

12. Should the Screening Committee find any particular candidate not suitable for appointment, a brief reasoned order shall be passed and communicated to him.

13. An Action Taken Report shall be filed before this Court in the month of July, 2026 when the case of Uttar Pradesh will be taken up again.

14. Unless and until this exercise is completed, no fresh advertisement shall be issued to fill up the other vacant posts.”

20. In compliance with the order dated 05.05.2026 passed by the Hon’ble Supreme Court, the Additional Chief Secretary, Department of Basic Education, Government of Uttar Pradesh, addressed a communication dated 02.6.2026 to the Director General, School Education, Uttar Pradesh, directing him to publish an advertisement in

two daily “Hindi” newspapers having wide circulation throughout the State.

21. The Director General, School Education, and State Project Director accordingly issued a communication dated 03.06.2026 to the Director of Education (Basic), Uttar Pradesh, for necessary compliance with the aforesaid directions. Pursuant thereto, an advertisement dated 13.06.2026 was published; however, General Instruction No. 2 therein restricted the applications to be considered for prospective appointment/selection to the said post only to special educators presently working on a contractual, daily-wage, or outsourced-agency basis, thereby excluding candidates such as the petitioners, who have been working as special educators for several years, possess the requisite educational qualifications, and hold valid Central Rehabilitation Registers issued by the Rehabilitation Council of India authorising them to work as rehabilitation professionals/personnel and as special educators/assistant teachers for imparting education to children with special needs.

22. Learned counsel for the petitioners submits that the impugned advertisement has been issued pursuant to the directions of the Hon’ble Supreme Court dated 05.05.2026 in **Rajneesh Kumar Pandey (supra)**. However, by virtue of General Instruction No. 2 contained in the advertisement, highly qualified and experienced Special Educators, who are presently unemployed but have rendered services as Special Educators up to the year 2019, have been excluded even from consideration for regular selection and appointment to the advertised posts. Such exclusion, it is submitted, defeats the very purpose of the advertisement as well as the underlying object of providing trained and qualified Special Educators to children requiring special care and educational assistance.

23. It is further submitted that the Hon’ble Supreme Court, by its judgment and order dated 28.10.2021 in **Rajneesh Kumar Pandey (supra)**, formulated a comprehensive framework while underscoring the

vital role of regularly appointed Special Educators. The Hon'ble Supreme Court also emphasised that, until regular appointments are made, a stop-gap arrangement by engaging Special Educators on an itinerant and contractual basis ought to be maintained, so that children requiring specialised attention in their education and overall development are not made to suffer for reasons attributable to the inaction or inadequacy of the State agencies.

24. Learned counsel submits that, in view of the aforesaid legal position and the significance attached by the Hon'ble Supreme Court to the services rendered by Special Educators, the non-renewal of the contractual engagement of the petitioners for the academic session 2019–20, pursuant to the order dated 27.07.2019 passed by respondent No. 5, was arbitrary and contrary to the mandate laid down by the Hon'ble Supreme Court in **Rajneesh Kumar Pandey (supra)**. It was in these circumstances that the Division Bench of this Court directed the petitioners to prefer a representation. The said representation, however, came to be rejected mechanically and without due application of mind.

25. It is lastly submitted that denial of an opportunity to the petitioners to participate in the process of regular selection, notwithstanding their services having been rendered for several years as Special Educators, is antithetical to the constitutional principles of equality, fairness and non-arbitrariness governing public employment. There is, according to learned counsel, no intelligible differentia having a rational nexus with the object sought to be achieved which could justify a distinction between Special Educators who are presently engaged on contractual, daily-wage or outsourcing-agency basis and those who, despite possessing the requisite qualifications and having acquired substantial experience in the field, are presently unemployed.

26. Both categories, it is submitted, possess the essential qualifications prescribed for selection and appointment against the regular posts advertised pursuant to the advertisement dated 13.06.2026. Excluding the latter category merely on the ground that they are not presently

engaged on contractual, daily-wage or outsourcing-agency basis, therefore, results in an artificial and unreasonable classification, and deprives the petitioners of a fair opportunity to compete for public employment.

27. Learned counsel for the petitioners further submits that there exists no reasonable or intelligible basis for drawing a distinction between Special Educators who are presently in employment and those who, despite possessing the requisite qualifications and experience, are presently unemployed. The past experience of the petitioners as Special Educators is a relevant consideration which could legitimately be taken into account in the process of selection and may furnish a rational basis for extending preference to experienced candidates. However, the mere status of present employment cannot constitute a valid ground for denying an otherwise eligible citizen an opportunity to compete for regular public employment.

28. It is contended that such a distinction strikes at the very foundation of the principle of equality in matters of public employment embodied in Article 16 of the Constitution of India. If the eligibility for applying against regularly advertised posts is confined only to persons who are presently employed, candidates who have become unemployed for reasons beyond their control would be permanently deprived of an opportunity to seek regular employment. Such a criterion would create a self-perpetuating class of exclusion, whereby an unemployed person would be denied the opportunity to secure employment precisely because he or she is unemployed. The same would be manifestly arbitrary and inconsistent with the constitutional guarantee of equal opportunity in matters of public employment.

29. Learned counsel further submits that all the petitioners possess the essential requirement of having a valid and active Central Rehabilitation Register issued by the Rehabilitation Council of India. The petitioners have, in fact, recently got their respective Central Rehabilitation Registers renewed, which remain valid up to the years 2028 or 2033, as

the case may be. Thus, there is no dispute with regard to their professional eligibility to render services as Special Educators.

30. It is further submitted that the petitioners had acquired substantial experience of approximately eight to nine years as Special Educators by July 2019. Their exclusion from the selection process, despite such experience and possession of the requisite professional credentials, merely because they are not presently engaged, is wholly arbitrary. At the very least, their past experience ought to have been taken into consideration and appropriate preference, in accordance with the applicable criteria, ought to have been extended to them, rather than depriving them altogether of the right even to submit an application pursuant to the advertisement dated 13.06.2026.

31. In addition to the aforesaid submissions, learned counsel for the petitioners has made a further plea in the nature of a request for sympathetic or compassionate consideration. It is contended that, had the petitioners succeeded in the special appeal preferred by them, they would, as on date, have become eligible to participate in the selection for the regular posts of Special Educators advertised pursuant to the aforesaid advertisement. On this premise, learned counsel submits that the petitioners may, as a matter of equity and on humanitarian or mercy grounds, be permitted to be considered against the said posts.

32. For the aforesaid reasons, learned counsel for the petitioners submits that the writ petition deserves to be allowed and the reliefs prayed for by the petitioners may accordingly be granted.

33. The matter was heard at length and, on 24.06.2026, the following order was passed:-

- “1. Heard learned counsel for the petitioners, learned Standing Counsel for the State and Sri Bipin Bihari Pandey, learned counsel for the respondent nos. 2 and 5.
2. Present writ petition has been filed assailing the impugned condition in the advertisement dated 13.06.2026, in which under the category of general directions, the contractual agreement/office order has been made one of the essential

documents for the purposes of consideration for the appointment to the post of Special Educator. The brief background of this case starts from the decision of a learned Single Judge of this Court dated 08.07.2025, when certain contractual employees had approached this Court, with a prayer to direct the respondents to permit the petitioners to function as itinerant and resource teacher and also pay their regular salary. The learned Single Judge relying upon the decision of the Apex Court in the case of Director, Institute of Management, U.P. Vs. Smt. Pushpa Srivastava, AIR 1992 SC 2070, dismissed the writ petition on the ground that in the matter of contractual appointment, employees have no right to continue on the post, after a flux of time. The said judgment was challenged in two separate appeals, wherein a division bench of this Court initially directed the petitioners to make proper application before the concerned authorities for consideration of the claim for regular appointment under the current government policy; vide order dated 02.12.2025 passed in Special Appeal Defective No. 607 of 2025 (Rakesh Kumar and others Vs. State of U.P. and others). Subsequently, in another special appeal, division bench of this Court vide order dated 05.02.2025 and in special appeal defective no. 62 of 2026 (Ashutosh Kumar Pandey and others Vs. State of U.P. and others), also passed an identical order. However, in spite of the fact that the petitioners were working since 2005-06/2010, the claim was rejected by two separate orders both dated 15.06.2026, on the premise that as per the government order dated 09.03.2026, only those incumbents can be considered who were working up to May, 2019.

3. Learned counsel for the petitioners submits that though he has not assailed the government order dated 09.03.2026, but he has relied upon the directions of the Apex Court dated 03.02.2026 in Writ Petition (civil) No. 132 of 2016 (Rajnish Kumar Pandey Vs. Union of India) to submit that the Apex Court while considering the cut off date specifically directed that all candidates, whether appointed prior to 28.02.2016 or post 28.02.2016, who meet the eligibility criteria for appointment as Special Educator must be considered by doing away by with such cut off date. He has also placed reliance on an order dated 05.05.2026, wherein certain directions were given for the State of U.P. For ready reference, relevant portion of the order dated 05.05.2026 is reproduced below:

"7. We are informed that presently approximately 4,900 posts of special educators are vacant. 8. We direct the State of Uttar Pradesh to issue an advertisement in two "Hindi" daily newspapers having wide circulation in the State inviting applications from candidates who have been working as special teachers on contract basis. All candidates who respond to such advertisement shall be considered. 9. If any candidate who has been appointed to work as a special educator through an outsourcing agency shall also be considered. 10. Since it is the stand of the State that it requires all the special educators to clear the Teachers Eligibility Test (TET), we direct that clearance of TET shall be regarded as a desirable qualification in light of the affidavit filed by the RCI on the previous occasion, 11. The Screening Committee while considering the aspiring candidates, i.e., the special teachers appointed on contract, shall bear in mind the order dated 7th March, 2025. 12. Should the Screening Committee

find any particular candidate not suitable for appointment, a brief reasoned order shall be passed and communicated to him. 13. An Action Taken Report shall be filed before this Court in the month of July, 2026 when the case of Uttar Pradesh will be taken up again. 14. Unless and until this exercise is completed, no fresh advertisement shall be issued to fill up the other vacant posts."

4. Per contra, Sri Rishi Kumar, Additional Chief Standing Counsel submitted that the said directions have been considered by the State and places reliance on the government order dated 06.02.2025, more specifically on Clause 7 to submit that the cut off date of 20.02.2016, was based on the decision of the Apex Court in Writ Petition (civil) No. 132 of 2016 itself, which has not been assailed by the petitioners. He further submits that the impetus is given to the teachers who are working and have adequate experience to be considered for the said post and since the petitioners are not working since 2019 admittedly, their experience may not be relevant at this stage; however, he could not dispute that the government order dated 09.03.2026, if allowed to be implemented, the direction of the Apex Court in the order dated 03.02.2026 may be in conflict and as such this Court finds that the relevancy of the experience of the petitioners can very well be judged by the screening committee, which has been constituted in pursuance of the direction of the Apex Court dated 07.03.2026 and for ready reference, the relevant portion of the order dated 07.03.2025 is reproduced below: -

"Under these circumstances, the number following orders are being passed today:

1. Each States and UTS shall come out with notifications with the number of posts that they have sanctioned for teachers who have to impart education to children with special needs.

2. After the posts have been sanctioned and notified, which shall be done positively within a period of three weeks from today i.e. on or before 28.03.2025, these posts need to be advertised at least in two newspapers having wide circulation in the respective States as well as on the website of the Department of Education and also on the official Government website of each of the States.

3. Let the selection and appointment be made qualified/competent/eligible teachers only. Further, the requirement of RCI qualification certificate also needs to be taken into account for appointment to the post as directed by this Court in its judgment dated 28.10.2021, as a candidate not having RCI Certificate shall be ineligible. The Screening Committee shall examine the case of each of the candidates who have been working on contract/daily wage basis to teach these children and those teachers who have been found to be competent/eligible and qualified to teach, shall be given the pay scale of special teacher. The past experience of these teachers shall also be kept in mind. However, the mandatory requirement for each of the candidates would be RCI qualification.

Further, in case of a person who was already working and teaching for the last many years, the Screening Committee shall also be authorized consider relaxation of the age limit in appropriate cases."

5. Matter requires consideration.

6. All the respondents may file counter affidavit within four weeks.

7. Petitioners may file rejoinder affidavit within two weeks thereafter.

8. Ad interim mandamus is issued to the respondent authorities, to consider the petitioners in the screening

process, without insisting on Clause No. 2 under the heading 'General Directions' in the advertisement dated 13.06.2026. However the result may not be declared and be kept in a sealed cover and the same shall be subject to the orders passed by this Court.

9. List after exchange of pleading or expiry of time granted above, whichever is earlier. ”

34. Learned counsel appearing for the respondents does not propose to file any counter-affidavit. Accordingly, with the consent of learned counsel for the parties, the matter is being heard and finally decided at this stage. After hearing learned counsel for the petitioners as well as learned counsel for the respondents, the Court proceeds to consider the matter on merits.

35. The appointment of Special Educators is intended to secure meaningful and substantive equality in education for children with special needs. Their specialised expertise enables them to address individual learning requirements, adopt appropriate pedagogic strategies and facilitate the child's effective participation and holistic development.

36. The post is, therefore, not merely an additional teaching resource but an essential component of inclusive education. Its underlying purpose is to remove disability-related barriers to learning and ensure that every child requiring specialised assistance receives it continuously and effectively.

37. Accordingly, the State's recruitment policy must be tested against this underlying object. The process of selection cannot be treated as a purely administrative exercise divorced from the constitutional imperative of equal educational opportunity and the dignity and development of children with special needs.

38. While considering the issue relating to the appointment of Special Educators for Children with Special Needs (CWSN), the Hon'ble Supreme Court, in **Rajneesh Kumar Pandey and Others v. Union of India and Others**, (2021) 17 SCC 1, decided on 28.10.2021, was principally concerned with the constitutional and statutory obligation of the State to

ensure the availability of adequately qualified Special Educators so as to secure meaningful and inclusive education for children with special needs.

39. The Hon'ble Supreme Court recognised that Special Educators constitute a distinct and indispensable category of trained professionals and that their specialised services cannot be adequately substituted by those of general teachers. The State authorities were, accordingly, required to create commensurate permanent posts and undertake the process of regular appointment. Until such regular appointments were made, appropriate stop-gap arrangements for the deployment of qualified Special Educators were directed to be continued, so that children with special needs do not suffer on account of administrative or institutional deficiencies.

40. The Hon'ble Supreme Court adopted a multi-pronged approach and, inter alia, issued the following directions:-

(i) the Central Government shall prescribe an appropriate pupil-teacher ratio and distinct norms for Special Educators in general schools;

(ii) commensurate permanent posts shall be created for rehabilitation professionals/Special Educators;

(iii) the competent authorities shall initiate the process of filling such posts through regular appointment within the stipulated time;

(iv) pending regular appointments, appropriate stop-gap arrangements shall be maintained to address the shortage of Special Educators; and

(v) the statutory and regulatory framework governing the Rehabilitation Council of India and the prescribed qualifications of Special Educators shall be duly adhered to.

41. The decision thus places the availability of qualified Special Educators at the core of the State's obligation towards children with special needs and makes it clear that administrative arrangements for their engagement must ultimately advance, and not frustrate, the larger object of inclusive education.

42. The judgment of the Hon'ble Supreme Court in **Rajneesh Kumar Pandey & Others v. Union of India & Others**, reported in (2021) 17 SCC 1, proceeds on the fundamental premise that children with special needs are entitled to meaningful and inclusive education and that such entitlement cannot be effectively secured in the absence of adequately qualified Special Educators. The Court accordingly directed the creation of commensurate permanent posts and initiation of regular recruitment, while requiring appropriate stop-gap arrangements to continue until such regular appointments are made. The decision thus places the availability of qualified Special Educators at the heart of the State's obligation towards children with special needs and requires the recruitment framework to be aligned with that constitutional and statutory objective.

43. Subsequently, in continuation of and in furtherance of the aforesaid objective, the Hon'ble Supreme Court, by order dated 05.05.2026 passed in Writ Petition (Civil) No. 132 of 2016, issued directions for filling up approximately 4,900 vacant posts of Special Educators in the State of Uttar Pradesh. Pursuant thereto, the State of Uttar Pradesh was directed to issue an advertisement in two Hindi daily newspapers having wide circulation throughout the State, inviting applications from candidates who had been working as Special Educators on a contractual basis.

44. The Hon'ble Supreme Court further directed the Screening Committee, while considering the candidature of aspiring candidates, namely, Special Educators engaged on a contractual basis, to bear in mind the directions contained in its earlier order dated 07.03.2025. The Screening Committee has further been directed to record brief but reasoned findings in the event it considers any particular candidate unsuitable for appointment.

45. The aforesaid order dated 07.03.2025 passed by the Hon'ble Supreme Court contained the following directions, which were required to be kept in view by the Screening Committee while considering the candidature of the concerned Special Educators. The relevant portion of the order, appearing at page 212 of the record, reads as under:-

- “1. Each States and UTs shall come out with notifications with the number of posts that they have sanctioned for teachers who have to impart education to children with special needs.
2. After the posts have been sanctioned and notified, which shall be done positively within a period of three weeks from today i.e. on or before 28.03.2025, these posts need to be advertised at least in two newspapers having wide circulation in the respective States as well as on the website of the Department of Education and also on the official Government website of each of the States.
3. Let the selection and appointment be made of qualified/competent/eligible teachers only. Further, the requirement of RCI qualification certificate also needs to be taken into account for appointment to the post as directed by this Court in its judgment dated 28.10.2021, as a candidate not having RCI Certificate shall be ineligible.”

46. The aforesaid directions make it clear that, pursuant to the order dated 07.03.2025 passed by the Hon'ble Supreme Court, each State, including the State of Uttar Pradesh, was required to notify the number of sanctioned posts of Special Educators/teachers entrusted with imparting education to children with special needs. Such posts were to be sanctioned and notified within three weeks from the date of the order, i.e. on or before 28.03.2025.

47. Upon such sanction and notification, the posts were required to be advertised in at least two newspapers having wide circulation in the respective State, besides being published on the website of the Department of Education and the official Government website of the

concerned State. The process of selection and appointment was to be confined to duly qualified, competent and eligible candidates.

48. The Hon'ble Supreme Court further directed that the requirement of a certificate of qualification issued by the Rehabilitation Council of India (RCI) be duly taken into consideration, in terms of its judgment dated 28.10.2021. A candidate not possessing the requisite RCI certification was, consequently, to be treated as ineligible for appointment to the post of Special Educator.

49. The Hon'ble Supreme Court, in its order dated 07.03.2025, also took note of the fact, as informed by the respective States, that a number of ad hoc and contractual teachers were presently imparting education to children with special needs and had continued to do so for nearly two decades. Having regard to the nature and duration of such engagement, the Hon'ble Supreme Court directed every State to constitute, forthwith, a Screening Committee comprising the State Commissioner, the Secretary of the concerned Education Department and a nominee of the Rehabilitation Council of India (RCI). It was further directed that a Disability Commissioner be appointed in every State.

50. The Screening Committee was entrusted with the task of examining the candidature of each person engaged on a contractual or daily-wage basis for imparting education to children with special needs. Those found competent, eligible and qualified were directed to be considered for grant of the pay scale applicable to Special Teachers. In undertaking such exercise, the Committee was specifically required to take into account the past experience of the concerned teachers. At the same time, possession of the requisite RCI qualification was made an indispensable condition.

51. The Hon'ble Supreme Court further authorised the Screening Committee, in appropriate cases, to consider relaxation of the prescribed age limit where a candidate had already been rendering services as a teacher for a substantial period.

52. More specifically, the direction of the Hon'ble Supreme Court was confined to Special Educators who were already working on a contractual, daily-wage or outsourced basis. In the case of a person who was already working and had been imparting education to children with special needs for a substantial period, the Screening Committee was directed to take such past service into consideration and, where otherwise eligible and possessing the mandatory RCI qualification, to consider relaxation of the prescribed age limit in an appropriate case. The relaxation contemplated by the order was thus referable to the age requirement and did not dispense with the essential eligibility condition of possessing the requisite RCI qualification.

53. A conjoint reading of the orders dated 03.02.2026 and 05.05.2026 passed by the Hon'ble Supreme Court in *Rajneesh Kumar Pandey* (supra) makes the position with regard to the State of Uttar Pradesh clear. The State was directed to publish an advertisement in two Hindi daily newspapers having wide circulation throughout the State, inviting applications from candidates who were working as Special Educators on a contractual basis.

54. The expression “who were working”, read in the context of the aforesaid directions, assumes significance. The Screening Committee was required to consider the candidature of Special Educators who were already engaged and to assess their suitability having regard, inter alia, to their past experience and the prescribed eligibility conditions. The emphasis of the directions was thus upon Special Educators who were already working, rather than upon persons who had ceased to be in engagement and were no longer rendering such services.

55. Accordingly, the subsequent selection exercise was contemplated as a screening and consideration process in respect of the existing pool of contractual Special Educators, with their past service being a relevant consideration, subject always to fulfilment of the mandatory eligibility requirements, including the requisite RCI qualification.

56. Accordingly, in compliance with the aforesaid orders of the Hon'ble Supreme Court, the Additional Chief Secretary, Department of Basic Education, Government of Uttar Pradesh, issued a communication dated 02.06.2026 to the Director General, School Education, Uttar Pradesh, directing him to publish an advertisement in two daily newspapers having wide circulation throughout the State. Paragraph 5 of the said communication reads as follows:-

“5- अतः इस संबंध में मुझे यह कहने का निर्देश हुआ है कि मा० उच्चतम न्यायालय द्वारा पारित उपरोक्त आदेश दिनांक 05.05.2026 में उल्लिखित निर्देशानुसार TET को desirable qualification मानते हुए संविदा/ डेलीवेजेज पर कार्यरत स्पेशल एजुकेटर्स के अतिरिक्त Outsourcing Agency के माध्यम से नियुक्त स्पेशल एजुकेटर्स को भी विशेष शिक्षक (CWSN) के रूप में चयन/नियुक्ति किये जाने हेतु राज्य में व्यापक प्रसार वाले हिन्दी भाषा के 02 समाचार पत्रों में सूचना प्रकाशित कर निर्धारित योग्यता रखने वाले अभ्यर्थियों को आवेदन हेतु 02 सप्ताह का समय प्रदान करते हुए उनसे आवेदन प्राप्त कर उनकी सूची विशेष शिक्षक(CWSN) के संबंध में राज्य आयुक्त, दिव्यांगजन, उ०प्र० की अध्यक्षता में गठित स्क्रीनिंग समिति को तत्काल उपलब्ध कराने का कष्ट करें।”

57. In furtherance of and in compliance with the directions contained in the order dated 07.03.2025 passed by the Hon'ble Supreme Court in Rajneesh Kumar Pandey and Others v. Union of India and Others, Writ Petition (Civil) No. 132 of 2016, the Government Order dated 06.09.2025 came to be issued. The said Government Order also contemplated consideration of Special Educators who were already working and possessed the requisite eligibility. The relevant portion of the Government Order reads as under:-

“(2) विशेष शिक्षक (CWSN) की अर्हता :-

* स्पेशल एजुकेटर्स प्राथमिक स्तर (कक्षा 01 से 05 तक) हेतु विशेष शिक्षक (CWSN) के लिए अर्ह होंगे, जिन्होंने स्नातक परीक्षा उत्तीर्ण के साथ-साथ भारतीय पुनर्वास परिषद (RCI) से मान्यता प्राप्त, डी0एड0 विशेष शिक्षा अथवा समकक्ष परीक्षा उत्तीर्ण की हो तथा स्पेशल एजुकेटर्स के पास एक्टिव सी०आर०आर० नम्बर के साथ भारतीय पुनर्वास परिषद का पंजीकरण प्रमाण पत्र होना अनिवार्य होगा।

* स्पेशल एजुकेटर्स उच्च प्राथमिक स्तर (कक्षा 06 से 08 तक) हेतु विशेष शिक्षक (CWSN) के लिए अर्ह होंगे, जिन्होंने स्नातक परीक्षा उत्तीर्ण के साथ-साथ भारतीय पुनर्वास परिषद (RCI) से मान्यता प्राप्त, बी०एड० विशेष शिक्षा अथवा समकक्ष परीक्षा उत्तीर्ण की हो तथा स्पेशल एजुकेटर्स के पास एक्टिव सी०आर०आर० नम्बर के साथ भारतीय पुनर्वास परिषद का पंजीकरण प्रमाण पत्र होना अनिवार्य होगा।

* सेवायोजन की तिथि तक अधिकतम आयु 60 वर्ष से अधिक नहीं होगी।

* ऐसे संविदा/डेलीवेज पर कार्यरत स्पेशल एजुकेटर्स जो अध्यापक पात्रता परीक्षा उत्तीर्ण हैं तथा भारतीय पुनर्वास परिषद (RCI) द्वारा निर्धारित अर्हता रखते हैं, को स्क्रीनिंग समिति द्वारा पात्र पाये जाने पर नियुक्त किया जायेगा।

* ऐसे संविदा/डेलीवेज पर कार्यरत स्पेशल एजुकेटर्स जो टीईटी उत्तीर्ण नहीं हैं, को विभाग द्वारा आयोजित अध्यापक पात्रता परीक्षा (विशेष शिक्षक (CWSN) के लिये) उत्तीर्ण होने पर नियुक्त किया जायेगा।

* संविदा/डेलीवेज पर कार्यरत स्पेशल एजुकेटर के नियुक्ति के पश्चात् चिन्हित विशेष शिक्षक (CWSN) के अवशेष पदों पर सीधी भर्ती द्वारा चयन की कार्यवाही की जायेगी।

58. Accordingly, General Instruction No. 2 was incorporated in the advertisement dated 13.06.2026, which is the subject matter of challenge in the present writ petition.

59. It is an admitted position that the petitioners have not been working as Special Educators since 2019. The specific condition contemplated by the Hon'ble Supreme Court, namely, consideration of those Special Educators who are presently working (कार्यरत), has accordingly been incorporated in the advertisement issued in compliance with the directions of the Hon'ble Supreme Court. Since the petitioners do not satisfy this essential condition, they fall outside the ambit of the selection process contemplated under the said advertisement.

60. The Government Order as well as the impugned advertisement has been issued in compliance with, and in furtherance of, the directions of

the Hon'ble Supreme Court in **Rajneesh Kumar Pandey (supra)**. The eligibility conditions stipulated therein, therefore, cannot be diluted or relaxed by this Court in a manner inconsistent with the express directions of the Hon'ble Supreme Court. Any such relaxation in favour of the petitioners would amount to permitting a departure from the very framework prescribed by the Apex Court and would consequently be impermissible.

61. Be that as it may, the application submitted by the petitioners for consideration has also been rejected. It is further relevant to note that the petitioners' earlier challenge to the non-renewal of their engagement had already been dismissed. The reason assigned by the competent authority for declining renewal was that the petitioners' services had not been found satisfactory. The said order of non-renewal having been subjected to challenge and the writ petition having been dismissed, the petitioners cannot, at this stage, seek to reopen the same issue indirectly through the present proceedings.

62. The entire exercise undertaken pursuant to the directions of the Hon'ble Supreme Court in **Rajneesh Kumar Pandey (Supra)**, and the subsequent orders passed therein, is fundamentally directed towards securing the availability of duly qualified Special Educators for children with special needs. The object of the exercise is not to confer an employment advantage upon persons who had worked as Special Educators in the past, but to ensure that children with special needs receive the specialised educational assistance to which they are entitled. The recruitment mechanism must, therefore, be viewed from the standpoint of the needs of such children and the effective availability of competent Special Educators.

63. The directions of the Hon'ble Supreme Court contemplated consideration of Special Educators who were working on contractual basis and required their suitability to be assessed by the Screening Committee, having regard to the prescribed qualifications, professional competence and past experience. The State, in compliance thereof,

incorporated the corresponding condition in the advertisement dated 13.06.2026. The petitioners admittedly ceased to work as Special Educators after 2019 and, therefore, do not fall within the class of candidates contemplated under the said exercise.

64. The petitioners seek to overcome this admitted position by relying upon their past experience and their subsisting RCI registration. Neither circumstance, however, can substitute the eligibility condition prescribed for the present selection. Possession of the requisite professional qualification and registration establishes their competence in the field; it does not, by itself, create a right to participate in a selection process governed by a specific condition as to the category of candidates to be considered.

65. The contention founded upon Articles 14 and 16 of the Constitution is equally unpersuasive. The constitutional guarantee of equal opportunity in public employment does not confer an unconditional right upon every otherwise qualified person to participate in every recruitment process. Equality operates amongst persons falling within the class legitimately identified for consideration. In the present case, the classification emanates from the very directions pursuant to which the selection exercise has been undertaken and bears a rational nexus with its object—namely, to identify and screen the pool of Special Educators already engaged for imparting specialised education to children with special needs.

66. More importantly, the Court cannot lose sight of the beneficiary of the entire statutory and administrative framework—the child with special needs. The validity of the impugned condition cannot be tested merely from the perspective of whether it affords an opportunity of employment to the petitioners. Its true measure is whether it advances the object for which the posts have been sanctioned and the selection process undertaken. The object is to secure the services of competent Special Educators for children who require specialised educational

intervention; it is not to perpetuate or revive engagements which had already ceased.

67. The petitioners' earlier engagement and their past experience may constitute relevant considerations in an appropriate selection process, but they cannot furnish a basis for this Court to enlarge the class expressly contemplated by the governing directions. Any such exercise would amount to introducing a relaxation which neither the advertisement nor the directions of the Hon'ble Supreme Court permit. This Court, exercising jurisdiction under Article 226, cannot rewrite the conditions of eligibility or create an exception in favour of an individual candidate on equitable considerations.

68. There is also no justification for overlooking the admitted fact that the petitioners have not been engaged as Special Educators since 2019. Their earlier challenge to the non-renewal of their engagement has already failed. The present proceedings cannot, therefore, be utilised as a means of indirectly reviving a status which had ceased to exist. The petitioners' own description of their representation as a "mercy petition" is also significant. It indicates that the relief sought is essentially one of indulgence or relaxation, rather than enforcement of an existing legal right.

69. The Court is, therefore, satisfied that the impugned General Instruction No. 2 neither introduces an impermissible classification nor infringes the petitioners' rights under Articles 14 or 16 of the Constitution. The condition is traceable to the directions of the Hon'ble Supreme Court and is rationally connected with the object of ensuring the availability of Special Educators for children with special needs.

70. The writ jurisdiction cannot be invoked to convert a claim for equitable indulgence into an enforceable right, nor can past engagement be permitted to supplant a condition of eligibility which governs the selection. The petitioners have failed to establish any legal or

constitutional infirmity in the impugned condition or in the consequential rejection of their applications.

71. It is a settled principle of law that eligibility for participation in a recruitment process is governed by the conditions stipulated in the advertisement, and a candidate who does not satisfy the prescribed eligibility criteria cannot claim, as of right, participation in the selection process. The principle finds authoritative recognition in **State of M.P. and others v. Raghuveer Singh Yadav and Others**, reported in (1994) 6 SCC 151, and has been authoritatively reiterated by the Constitution Bench in **Tej Prakash Pathak and Others v. Rajasthan High Court and Others**, reported in (2025) 2 SCC 1.

72. In **Tej Prakash Pathak (supra)**, the Constitution Bench held that the recruitment process commences with the issuance of the advertisement and that the eligibility criteria notified at the inception of the process cannot ordinarily be altered or varied midway through the recruitment. The principle operates with equal force in the converse situation: a candidate who does not fulfil the eligibility condition prescribed at the commencement of the recruitment process cannot seek relaxation thereof merely on considerations of equity, sympathy or past experience. Thus, the petitioners cannot claim a right to participate in the selection process dehors the eligibility condition expressly prescribed in the advertisement.

73. Article 16 of the Constitution guarantees equality of opportunity in matters of public employment amongst persons who satisfy the prescribed eligibility requirements. It does not confer upon a person who falls outside the notified eligibility criteria an enforceable right to seek relaxation of such condition. Once the eligibility criterion is found to have been validly prescribed in accordance with the governing framework, the Court, in exercise of jurisdiction under Article 226, cannot substitute its own criterion or enlarge the field of eligibility on equitable considerations.

74. This Court, in exercise of its power of judicial review, cannot substitute the expression “presently working”, as employed in the impugned advertisement, with the expression “having worked in the past.” Such an exercise would amount to rewriting the eligibility criteria prescribed by the competent authority and would, therefore, transgress the permissible limits of judicial review. More importantly, such a course would run contrary to the express framework and directions laid down by the Hon’ble Supreme Court pursuant to which the recruitment process has been undertaken.

75. It is settled law that the prescription of qualifications and eligibility requirements falls primarily within the domain of the employer or recruiting authority, and that the Court cannot substitute its own assessment or rewrite the conditions governing recruitment. The same principle is reinforced by the distinction between eligibility and suitability recognised in **Dr. M.V. Nair v. Union of India and others**, reported in (1993) 2 SCC 429. Eligibility constitutes the threshold requirement for entering the field of consideration; suitability arises only thereafter, upon consideration of a candidate who satisfies the prescribed eligibility conditions.

76. Consequently, however meritorious the petitioners' past experience may be, such experience cannot be employed to replace an express eligibility condition which requires the candidate to be “presently working.” To hold otherwise would not amount to interpreting the advertisement, but to rewriting it—an exercise which this Court cannot undertake in judicial review.

77. This Court is also of the considered view that past experience, by itself, does not create an enforceable right to regular appointment. The Constitution Bench of the Hon’ble Supreme Court in **Secretary, State of Karnataka and others v. Uma Devi and others (3)**, reported in (2006) 4 SCC 1, authoritatively held that temporary, contractual or daily-wage engagement does not, by itself, confer any right to regular appointment and that entry into public employment must ordinarily be through a

recruitment process consistent with the constitutional scheme embodied in Articles 14 and 16.

78. Consequently, the petitioners' past experience, howsoever long or valuable, cannot, by itself, confer upon them a right either to appointment or to participation in a recruitment process in disregard of the eligibility condition expressly prescribed in the advertisement. Past experience may have evidentiary or preferential relevance where the governing recruitment framework so provides; it cannot, however, supplant an express eligibility requirement. The position assumes even greater significance in the present case, where the impugned eligibility condition has been incorporated pursuant to, and in conformity with, the directions issued by the Hon'ble Apex Court. This Court, therefore, cannot dilute, modify or enlarge the class of eligible candidates so as to include persons who do not satisfy the condition expressly prescribed pursuant to the aforesaid directions.

79. The aforesaid principle was subsequently affirmed and explained by the Hon'ble Supreme Court in **State of Karnataka and others v. M.L. Kesari and others**, reported in (2010) 9 SCC 247, wherein the Court reiterated the principles governing regularisation and made it clear that the exception carved out in Uma Devi (3) cannot be construed as conferring an indefeasible right to regular appointment upon persons engaged otherwise than through the constitutionally prescribed recruitment process.

80. The principal constitutional challenge raised by the petitioners is that there exists no intelligible differentia between Special Educators who are presently engaged and those who are not presently employed. The submission, however, proceeds on an unduly narrow understanding of the classification. The settled test of permissible classification, as enunciated in **State of West Bengal v. Anwar Ali Sarkar**, reported in AIR 1952 SC 75, and **Ram Krishna Dalmia v. Justice S.R. Tendolkar and others**, reported in AIR 1958 SC 538, requires the existence of: (i) an intelligible differentia distinguishing those who are grouped together

from those who are left out; and (ii) a rational nexus between such differentia and the object sought to be achieved.

81. In the present case, the classification cannot be reduced to the simple distinction between the employed and the unemployed. It flows from the specific class identified in the directions of the Hon'ble Supreme Court, namely, Special Educators who have been working on a contractual basis, whose candidature was required to be subjected to screening with due regard to their existing engagement and past experience. The distinction, therefore, has a direct nexus with the object of the exercise contemplated by the Hon'ble Apex Court, namely, to identify, screen and consider the existing pool of contractual Special Educators who were already engaged in imparting education to Children with Special Needs. The classification cannot, therefore, be examined in isolation from the source, context and object of the selection exercise. The relevant class was constituted pursuant to the directions of the Hon'ble Supreme Court itself, and the petitioners, having admittedly ceased to be engaged as Special Educators in 2019, do not fall within that class.

82. It is equally well settled that the guarantee of equality of opportunity in public employment operates amongst persons who are eligible for consideration under the applicable recruitment framework; it does not confer an unrestricted right upon every person to participate in a selection process irrespective of the prescribed eligibility conditions. In **J&K Public Service Commission and others v. Dr. Narinder Mohan and Others**, reported in (1994) 2 SCC 630, the Hon'ble Supreme Court reiterated the necessity of making public appointments in accordance with the prescribed recruitment framework. Article 16, therefore, guarantees equality of opportunity to persons who satisfy the conditions prescribed for appointment; it does not create an unconditional right to seek appointment to a public post. Once the petitioners fail to satisfy the condition of being presently engaged, as contemplated by the governing framework, invocation of Article 16 cannot enlarge the field of eligibility.

83. The petitioners next seek relaxation of the aforesaid condition on the strength of their past experience. The submission cannot be accepted. In **Maharashtra Public Service Commission through its Secretary and Others v. Sandeep Shriram Warade and others**, reported in (2019) 6 SCC 362, the Hon'ble Supreme Court held that prescription of qualifications and recruitment criteria falls primarily within the domain of the employer and that the Court cannot itself prescribe or substitute eligibility conditions. The employer is best placed to determine the requirements of a particular post having regard to the nature and demands of the work. Experience may undoubtedly constitute a relevant consideration where the governing recruitment framework so provides; it cannot, however, be converted into a substitute for an express eligibility condition. The petitioners' past experience, therefore, cannot displace the condition of present engagement prescribed for the selection in question.

84. The petitioners have also placed considerable reliance upon their active registration with the Rehabilitation Council of India and contend that such registration establishes their professional eligibility. There can be no dispute that a valid RCI registration is an important component of the professional qualification required for a Special Educator. However, possession of such qualification does not, by itself, satisfy every condition prescribed for a particular recruitment process. Eligibility is cumulative and not selective. Fulfilment of one eligibility requirement cannot neutralise failure to satisfy another independently prescribed condition. Thus, even assuming that the petitioners possess the requisite professional qualifications and valid RCI registration, the same cannot dispense with the separate condition relating to the class of candidates contemplated for consideration under the impugned advertisement.

85. This Court is further of the considered view that it cannot dilute, modify or enlarge the framework prescribed pursuant to the directions of the Hon'ble Apex Court. Article 141 of the Constitution makes the law declared by the Hon'ble Supreme Court binding upon all courts within the territory of India. More fundamentally, a court exercising jurisdiction

under Article 226 cannot, under the guise of equitable or judicial review jurisdiction, carve out an exception which has the effect of altering or enlarging the class identified under the directions of the Hon'ble Supreme Court. Once the eligibility framework has been prescribed in furtherance of the said directions, any judicial relaxation thereof, in favour of a category not contemplated by that framework, would amount not to interpretation but to modification of the governing directions. Such an exercise is plainly impermissible.

86. The present proceedings also cannot be permitted to operate as a collateral challenge to the petitioners' discontinued engagement. The petitioners admittedly ceased to be engaged as Special Educators in 2019. Their past engagement is undoubtedly a matter of record, but past engagement cannot confer upon them a present status which they no longer possess. The recruitment process has to be considered on the basis of the eligibility conditions governing it as they stand, and not by retrospectively restoring a status which had ceased to exist years earlier.

87. The petitioners' own description of the representation submitted by them as a "mercy petition" is also of some significance. Such nomenclature, by itself, may not determine the legal character of the representation; nevertheless, it assumes relevance when considered alongside the undisputed fact that the petitioners ceased to be in engagement after 2019. The expression is hardly consistent with an assertion of a vested or enforceable right to relaxation of the eligibility condition prescribed for the present selection.

88. Viewed cumulatively, therefore, the petitioners' grievance essentially seeks enlargement of the class of candidates expressly contemplated under the governing recruitment framework. Their past experience, professional qualifications and valid RCI registration may demonstrate their competence as Special Educators, but none of these circumstances can, by themselves, confer a right to participate in a selection process contrary to the eligibility condition prescribed therein pursuant to the directions of the Hon'ble Supreme Court.

89. It is a settled proposition of law that participation in an examination or selection process pursuant to an interim order of the Court does not confer upon a candidate any vested, substantive or equitable right which the candidate does not otherwise possess in law. An interim order is necessarily interlocutory in character and cannot have the effect of conferring upon the beneficiary a right which is dependent upon the final adjudication of the proceedings. The Supreme Court in **Secretary, Union Public Service Commission and another v. S. Krishna Chaitanya, reported in (2011) 14 SCC 227**, has cautioned against permitting candidates to derive an advantage from participation in an examination pursuant to an interim order when their very entitlement to participate is under adjudication. Equally, in **Abhimanyoo Ram v. State of U.P. and another, reported in (2008) 17 SCC 73**, the Supreme Court has held that where participation in the selection process is secured by virtue of an interim order and the proceedings ultimately fail, the candidate cannot be permitted to derive any benefit from such interim order. Thus, the mere fact that the petitioners were permitted to participate in the examination pursuant to the interim order passed by this Court cannot, by itself, create in their favour any right to have their candidature considered, to have their result declared, or to claim selection or appointment contrary to the governing eligibility conditions and the settled legal position. Any advantage flowing solely from the interim order must necessarily abide by the final outcome of the proceedings and cannot ripen into a legal right merely by reason of the petitioners having undergone the examination.

90. This Court is of the considered view that no interference is warranted at this stage merely on the ground of sympathy or mercy, founded upon a presumption that the petitioners may suffer prejudice in the event of their succeeding in the special appeal preferred by them. Such a premise is wholly conjectural and cannot furnish a legal basis for exercising judicial review jurisdiction. The orders and directions issued by the Hon'ble Supreme Court are binding and cannot be diluted or modified by this Court on equitable or compassionate considerations. Moreover, the

special appeal preferred by the petitioners is pending consideration before the competent Division Bench, which alone is seized of the matter and would be entitled to examine the legality and correctness of the order under challenge in accordance with law. This Court, while exercising its limited jurisdiction of judicial review in the present proceedings, cannot pre-empt or anticipate the outcome of the pending special appeal, much less grant relief on the assumption that the petitioners may ultimately succeed therein. The plea of possible prejudice, therefore, cannot justify any departure from the conditions governing the present selection.

91. For the reasons aforesaid, this Court finds no constitutional or legal infirmity in the impugned eligibility condition warranting interference in exercise of jurisdiction under Article 226 of the Constitution. The writ petition is, accordingly, dismissed. There shall be no order as to costs.

92. Needless to say, the petitioners, not being eligible under the express condition stipulated in the advertisement, as they were not in service at the relevant time, cannot claim any vested or enforceable right to appointment merely on the ground that they were permitted to appear in the examination pursuant to the interim order passed by this Court. Such participation, being the consequence of an interim indulgence, cannot confer upon the petitioner an eligibility which he did not otherwise possess under the governing conditions of recruitment.

(Mrs. Manju Rani Chauhan,J.)

September 11, 2026

Jitendra/-