



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 14083 OF 2025

In the matter of an application under Articles 226 & 227 of the Constitution of India

Prajnya Parimita Barik **Petitioner**

-Versus-

State of Odisha & others **Opp. Parties**

Advocates appeared in this case:

For Petitioner : M/s. C. Nayak & R.K. Nayak,
Advocates

For Opp. Parties: Mr. S.K. Jee,
Addl. Government Advocate

CORAM:

THE HON'BLE MR. JUSTICE DIXIT KRISHNA SHRIPAD

J U D G M E N T

Date of hearing : 21.08.2025 :: Date of Judgment : 22.08.2025

PER DIXIT KRISHNA SHRIPAD,J.

Petitioner, an aspirant for the job of teacher, is invoking writ jurisdiction of this Court seeking a direction to OP Nos.3 & 4 to recommend her name under the heading of untrained applicant for



‘Sikshya Sahayakas’ and for a further direction for issuing the appointment order, after quashing the impugned order dated 26.03.2025. This is a third round of litigation, the earlier two being in WP(C) No.52 of 2015 & WP(C) No.28242 of 2023.

2. Foundational facts:

2.1. Petitioner bears the qualifications, namely, Orissa Teachers Eligibility Test (OTET-I) & B.Ed. She is a 1st Class Student from Matriculation to B.Ed. Admittedly, petitioner has Physical Disability Certificate, inasmuch as she has 45% ocular disability. Pursuant to Recruitment Notification dated 11.09.2014, she had made online application for her engagement as a Sikshya Sahayak.

2.2. After the due verification, the second OP-Director prepared list of trained eligible applicants during the year 2014-15 wherein petitioner’s name figured at Sl. No.191 in the said category. However, to her dismay, her name was struck off from the category of eligible trained applicants, though she has B.Ed. qualification. The District Project Coordinator-OP No.3 brought her at Sl. No.51 in the category of untrained CT candidates. Her challenge to the same in WP(C) No.52/2015 was negatived vide order dated 04.10.2016.



2.3. Since liberty was given to the petitioner to work out her grievance before the appropriate authority, as observed in the Writ Appeal order, she made a representation dated 10.02.2017 ventilating her grievance. That too, not yielded much result in being disposed off on 20.05.2017. However, during its pendency, the Board of Secondary Education promulgated the guidelines for “Orissa Teacher Eligibility Test (OTET) 2019” pursuant to corrigendum dated 22.11.2018 relaxedly altering the norms whereunder Graduation with minimum of 50% marks coupled with the B.Ed. secured from NCTE recognized institution, would be sufficient educational qualification for appointment as a teacher for Class-I to IV, if the appointed candidate undergoes a six month bridge courses in an Elementary Education recognized by NCTE within two years of appointment.

2.4. Petitioner’s candidature having not been considered under the subject new guidelines, she filed WP(C) No.28242 of 2023 against the order dated 20.05.2017, whereby her application was rejected. A Coordinate Bench of this Court, vide order dated 12.02.2025, having quashed the same, remitted the matter for fresh consideration. The OP



No.2, vide office order dated 26.03.2025, has again rejected her claim and that happens to be the subject matter of this writ petition.

3. Learned counsel for the petitioner, drawing attention of the Court to the 'Handicapped Certificate' dated 01.12.2010, tells that the petitioner is having 45% vision impairment; she is educationally fully qualified having OTET-I coupled with B.Ed.; under the General Instructions for Candidate dated 11.09.2014, petitioner's application for engagement ought to have been considered, more particularly keeping in view Guideline Nos.2, 7 & 8; despite a direction by the Coordinate Bench, due consideration has not happened and that has resulted into duplication of the very same decision to the detriment of the petitioner and therefore, interference of this Court is eminently warranted.

4. Learned AGA, in his usual style, vehemently resists the petition making submission in justification of the impugned order and the reasons in which it has been structured. He told the Court that under Guideline-2, OTET-I candidates can apply for CT category and OTET-II candidates can apply for B.Ed. category; both are mutually exclusive; the very application of the petitioner was under CT category when she had OTET-I; however, she was not entitled to engagement since she comes in the



class ‘trained candidates’; for the same reason she cannot avail the benefit of Guideline Nos.7 & 8, either. She hastened to add that ears having passed, even otherwise petitioner cannot be accommodated more particularly when the accruing vacancies for being notified periodically.

5. Having heard the learned counsel for the parties and having perused the petition papers, this Court is inclined to grant indulgence in the matter as under and for the following reasons:

5.1. Admittedly, petitioner possesses OTET-I and B.Ed. There is no dispute that petitioner falls in the category of Physically Handicapped, inasmuch as she has visual impairment of 45%, 40% being the minimum prescribed for availing the benefits. From Matriculation to B.Ed. she has been a First Class Student and therefore, she is meritorious candidate. It hardly needs to be stated that a meritorious candidate coupled with the Physical Handicap has to be treated with due leniency, of course within the frame work of law. The impugned order does not reflect this approach, though petitioner is before this Court in the 3rd round of litigation. This constitutes the first legal infirmity in the impugned action.



5.2. Learned counsel appearing for the petitioner is right in telling the Court that Guideline Nos.2, 7 & 8 have to be construed harmoniously and not as island provisions. These Guidelines read as under:

- “2. *OTET-I Passed candidate can apply for CT category & OTET-II passed candidates can apply for B.Ed. Category only.*
- 7. *OTET-I passed untrained SC, ST and PH, candidate can apply for CT posts.*
- 8. *OTET-II passed Graduates of SC, ST & PH category can apply for CT posts.”*

If one reads Guideline No.2, one would gather an impression that the categories mentioned therein are mutually exclusive. As a broad generalization, it is true also. However, when one travels to Guideline Nos.7 & 8, one will find that they constitute a kind of exception to the generalization. Obviously, a special treatment is provided for the candidates belonging to oppressed classes of the society, and that a candidate having physical handicap is also placed on par with these classes in the wisdom of policy maker. Admittedly, petitioner has OTET-I coupled with First Class B.Ed. and she has been certified visual impairment of 45%.

5.3. To add to the above, under Guideline No.7 untrained OTET-I can apply for CT posts. There is absolutely no reason or rhyme to exclude trained candidates from applying. Here, one has to keep in mind that this



Guideline is facilitative to the disadvantaged class of candidates like SC, ST & Physically Handicapped. A person cannot be deprived up a right otherwise available to him/her on the ground that he/she is more meritorious because of training. The expression “untrained SC, ST and PH Candidates” employed in this Guideline should not be literally interpreted, but it has to be given a constructive and purposeful interpretation. Otherwise, merit will be at casualty and nothing else. In the District Project Coordinator’s decision No.1465 dated 20.05.2017, petitioner was treated as an untrained candidate, whereas now she is being treated as a trained candidate. There is no explanation offered for this oscillation, when the fact matrix remains intact. Therefore, the passionate contention of the learned AGA that the categories are made mutually exclusive in terms of Guideline No.2 cannot sway away the case of petitioner. The impugned order runs counter to this.

5.4. The next contention of the learned AGA that though the petitioner has physical disability of the kind, she had not staked her claim on that basis and therefore, that element cannot enter the fray of consideration, is liable to be rejected for more than one reason: Firstly, the very application of the petitioner mentions reserved category of handicap. Secondly, the



very selection list specifically mentions that the candidature of the petitioner is considered under PH category. Thirdly, in WP(C) No.28242 of 2023 disposed of 12.02.2005, the Physical Handicap of the petitioner has been specifically treated by the Coordinate Bench.

5.5. The last contention of the learned AGA that more than a decade having lapsed in the course of legal battles, now it is not possible to consider the case of petitioner for appointment to the vacancies of 2013-14, is difficult to countenance. Petitioner was before this Court twice earlier and before the authorities thrice. She has been a relentless fighter for justice. The time spent in the legal battles fought one after another, cannot be a ground for denying relief to the victorious party. Fruits of successful litigation, howsoever long the same be fought, ordinarily should reach the hands of winner party. Otherwise faith of right thinking section of people would be shaken and that would not augur well to the rule of law. It is a matter of common knowledge that vacancies do occur because of retirement, resignation, removal and death. In one of such vacancy petitioner needs to be accommodated, since impugned action of the OPs is faltered. No purpose would be served by again remanding the



matter. Remand after remand would disillusion the litigants, to say the least.

In the above circumstances, this writ petition succeeds; a Writ of Certiorari issues quashing the impugned order. A Writ of Mandamus follows to OPs to select and appoint the petitioner to the post in question in any of the vacancies and report compliance to the Registrar General of this Court within an outer limit of eight (8) weeks.

It is made clear that such appointment shall be with the prospective effect and that petitioner shall not be entitled to any benefit, monetary or service, for the period gone by.

Now, no costs.

Web copy of this judgment to be acted upon by all concerned.

Dixit Krishna Shripad
Judge

Orissa High Court, Cuttack
The 22nd day of August, 2025/Prasant