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HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(S) No. 3834 of 2022**

Balram S/o Shri Gopi Ram Aged About 31 Years R/o Village Umariya, Post Kateli Tahsil And District Mungeli Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh through the Secretary School Education Department Ministry, Mahanadi Bhawan, PO And PS Rakhi, Nawa Raipur, District Raipur Chhattisgarh.
2. Director Directorate Of Public Instruction Raipur, District Raipur Chhattisgarh.
3. District Education Officer Raipur, District Raipur Chhattisgarh.

---- Respondents**AND****W.P.(S) No. 4057 of 2022**

Khagesh Kumar Verma S/o Shri Sujan Lal Verma Aged About 44 Years R/o Village And Post Ramatola, Tahsil Dongargarh, District Rajnandgaon, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary School Education Department Ministry, Mahanadi Bhawan, P.O. And P.S. Rakhi, Nawa Raipur, District Raipur, Chhattisgarh
2. Director Directorate Of Public Instruction Raipur, District Raipur, Chhattisgarh
3. District Education Officer Raipur, District Raipur, Chhattisgarh

---- Respondents**AND****W.P.(S) No. 4187 of 2022**

Ramesh Kumar Jangti S/o Shri Rajeerao Aged About 32 Years R/o Village Gollaguda, Post And Tahsil Bhopalpatnam, District Bijapur (C.G.)

---- Petitioner**Versus**

1. State Of Chhattisgarh through the Secretary School Education Department Ministry, Mahanadi Bhawan, PO And PS Rakhi, Nawa Raipur, District Raipur Chhattisgarh.
2. Director Directorate Of Public Instruction Raipur, District Raipur Chhattisgarh.
3. District Education Officer Raipur, District Raipur Chhattisgarh.

---- Respondents**AND**

W.P.(S) No. 6026 of 2022

Omeshwari Sahu D/o Shri Chowaram Sahu Aged About 37 Years R/o H. No. 415 Ward No. 18 Jagriti Nagar, Warkura Birgaon, District Raipur (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh through the Secretary School Education Department Ministry, Mahanadi Bhawan, PO And PS Rakhi, Nawa Raipur, District Raipur Chhattisgarh.
2. Director Directorate Of Public Instruction Raipur, District Raipur Chhattisgarh.
3. District Education Officer Raipur, District Raipur Chhattisgarh.

---- Respondents

AND

W.P.(S) No. 6031 of 2022

Goverdhan Singh Rathia S/o Shri Barsatilaal Rathia, Aged About 28 Years R/o Village Kudekela, Post And Tahsil Dharamjaigarh District Raigarh Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh through the Secretary School Education Department Ministry, Mahanadi Bhawan, PO And PS Rakhi, Nawa Raipur, District Raipur Chhattisgarh.
2. Director Directorate Of Public Instruction Raipur, District Raipur Chhattisgarh.
3. District Education Officer Raipur, District Raipur Chhattisgarh.

---- Respondents

AND

W.P.(S) No. 6033 of 2022

Manisha Kaiwartya S/o Shri Bhupendra Kaiwartya Aged About 37 Years R/o Village Semariya, Post Bhaimso, Tahsil And Thana Pamgarh, District Janjgir Champa Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh through the Secretary School Education Department Ministry, Mahanadi Bhawan, PO And PS Rakhi, Nawa Raipur, District Raipur Chhattisgarh.
2. Director Directorate Of Public Instruction Raipur, District Raipur Chhattisgarh.
3. District Education Officer Raipur, District Raipur Chhattisgarh.

---- Respondents

AND

W.P.(S) No. 6041 of 2022

Raghwendra Kumar Rathia S/o Roopnarayan Singh Rathia Aged About 34 Years R/o Village Tudri, Tahsil And Thana Dabhra, District : Janjgir-Champa, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh through the Secretary School Education Department Ministry, Mahanadi Bhawan, PO And PS Rakhi, Nawa Raipur, District Raipur Chhattisgarh.
2. Director Directorate Of Public Instruction Raipur, District Raipur Chhattisgarh.
3. District Education Officer Raipur, District Raipur Chhattisgarh.

---- Respondents

AND

W.P.(S) No. 6468 of 2022

Mamta Sahu W/o Shri Rajendra Kumar Verma Aged About 47 Years R/o Village Taregaon, Tahsil And Post Nawagarh, District : Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh through the Secretary School Education Department Ministry, Mahanadi Bhawan, PO And PS Rakhi, Nawa Raipur, District Raipur Chhattisgarh.
2. Director Directorate Of Public Instruction Raipur, District Raipur Chhattisgarh.
3. District Education Officer Raipur, District Raipur Chhattisgarh.

---- Respondents

AND

W.P.(S) No. 1835 of 2023

Jayram Patel S/o Shri Chinta Ram Patel Aged About 43 Years R/o Village Saristal, Block And Tehsil Lormi, District Mungeli (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh through the Secretary School Education Department Ministry, Mahanadi Bhawan, PO And PS Rakhi, Nawa Raipur, District Raipur Chhattisgarh.
2. Director Directorate Of Public Instruction Raipur, District Raipur Chhattisgarh.
3. District Education Officer Raipur, District Raipur Chhattisgarh.

---- Respondents

AND

W.P.(S) No. 1841 of 2023

Sunayana Bairagi D/o Shri Jugdul Ram Bairagi Aged About 30 Years Jhapi

Darha Bagicha Post Bagicha, District : Jashpur, Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary Education Dept Mahanadi Bhawan Nava Raipur Chhattisgarh.
2. Director Directorate Of Public Instruction Raipur, District : Raipur, Chhattisgarh
3. District Education Officer District Raipur Chhattisgarh.

---- **Respondents**

AND

W.P.(S) No. 2552 of 2023

Kamlesh Kumar Markandey S/o Shri Changu Lal Markandey Aged About 33 Years R/o Village Hindauli, P.O. Bawanke T.B. District Mahasamund 493551 (C.G.)

---- **Petitioner**

Versus

1. State Of Chhattisgarh through the Secretary School Education Department Ministry, Mahanadi Bhawan, PO And PS Rakhi, Nawa Raipur, District Raipur Chhattisgarh.
2. Director Directorate Of Public Instruction Raipur, District Raipur Chhattisgarh.
3. District Education Officer Raipur, District Raipur Chhattisgarh.

---- **Respondents**

AND

W.P.(S) No. 1506 of 2023

Chetan Prasad Markam S/o Shri Rampal Markam Aged About 28 Years R/o Village And Post Bahigaon, Tahsil Keshkal, District Kondagaon (C.G.)

---- **Petitioner**

Versus

1. State Of Chhattisgarh through the Secretary School Education Department Ministry, Mahanadi Bhawan, PO And PS Rakhi, Nawa Raipur, District Raipur Chhattisgarh.
2. Director Directorate Of Public Instruction Raipur, District Raipur Chhattisgarh.
3. District Education Officer Kondagaon, District Kondagaon, Chhattisgarh.

---- **Respondents**

AND

W.P.(S) No. 615 of 2022

Kiran Banjare W/o Meghraj Banjare Aged About 34 Years R/o Ward No. 13, Neurdi, Post- Barbada, Block- Dharsiwa, District- Raipur, Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Nawa Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. The Director, Directorate Of Public Instructions, Atal Nagar, New Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
3. The District Education Officer, Raipur, District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondents

AND

W.P.(S) No. 628 of 2022

Prakash Markande S/o Shri Pravesh Kamal Markande, Aged About 35 Years R/o Village And Post Lalpur Post Chapota, District Raipur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. The Director, Directorate Of Public Instructions, Atal Nagar, New Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
3. The District Education Officer, Raipur, District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondents

AND

W.P.(S) No. 630 of 2022

Dushyant Kumar Dewangan S/o Shri Nand Kumar Dewangan Aged About 31 Years R/o Village Dhamdha District Durg Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. The Director, Directorate Of Public Instructions, Atal Nagar, New Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
3. The District Education Officer, Durg, District- Durg, Chhattisgarh.

---- Respondents

AND

W.P.(S) No. 1467 of 2022

Tejram Sahu S/o Hemlal Sahu, Aged About 36 Years R/o Village Lachkera, Post Jamgaon, Tahsil Rajim, District Gariyaband Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, School Education

Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

2. The Director, Directorate Of Public Instructions, Atal Nagar, New Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
3. The District Education Officer, Gariyaband, District- Gariyaband, Chhattisgarh.

---- Respondents

AND

W.P.(S) No. 4147 of 2022

Arvind Kumar Bhagat S/o Amar Sai Ram, Aged About 34 Years R/o Ward No. 10, Khodarikasra, Korea, District : Koriya (Baikunthpur), Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Education Department, Mahanadi Bhawan, Mantralaya Atal Nagar, New Raipur, District : Raipur, Chhattisgarh
2. Joint Director, Raipur Division Raipur, District : Raipur, Chhattisgarh
3. District Education Officer Raipur, District : Raipur, Chhattisgarh

---- Respondents

AND

W.P.(S) No. 4229 of 2022

Newan Say Netam S/o Madan Say Netam Aged About 35 Years R/o Village - Baturabahar, Tahsil-Pattalgaon, District : Jashpur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. The Director, Directorate Of Public Instructions, Atal Nagar, New Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
3. The District Education Officer, Raipur, District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondents

For the respective petitioners : Shri Ghanshyam Kashyap, Shri Brajendra Singh, Shri Ajay Kumrani, on behalf of Shri Pappu Sahu, Shri Ajay Shrivastava and Shri Harish Khuntia, Advocates.

For Respondents/ State : Shri Sandeep Dubey, Dy. A.G. and Ms. Priyamvadha Singh, Dy. G.A.

Hon'ble Shri Justice Rakesh Mohan Pandey

ORDER

28.04.2023

1. The petitioners in these petitions are claiming 5% relaxation in the qualifying marks in their academic qualification which has been denied by the District Education Officer, District Raipur vide order dated 22.6.2022.
2. The issue is not *res integra*. As the Division Bench of this Court has already decided the issue with regard to entitlement of relaxation in Writ Appeal No. 501 of 2022 and other connected matters vide judgment and order dated 10.2.2023. The Division Bench in paragraphs 50 and 51, held as under:

'50. It is seen that a teacher of Panchayat Teacher Rules, 2012 and of Nagriya Nikay Teacher Rules, 2013, after completion of eight years of service, can also become a member of service under the Rules of 2019 through absorption. It is already noticed that under Panchayat Teacher Rules, 2012 as well as Nagriya Nikay Teacher Rules, 2013, relaxation of 5% in the qualification marks are given to the candidates belonging to reserved categories such as SC/ST/OBC/PH. Since there is reference to RTE Act, necessarily, the Rules of 2019 takes within its fold the minimum qualification as prescribed by NCTE.

51. In view of the above discussion, the order of the learned Single Judge is set aside. The writ appeals are allowed holding that the SC/ST/OBC candidates are entitled to 5% relaxation in their academic qualifications and such of the writ petitioners who would consequently fulfill the minimum qualification shall be entitled to be appointed pursuant to the advertisement dated 09.03.2019.'

3. Recently, the Division Bench has allowed W.A. No. 191 of 2023 vide judgment dated 21.4.2023 relying upon the judgment passed in W.A. No.501 of 2022.
4. Learned State counsel would oppose the submissions made by learned counsel for the petitioners. They would submit that the benefit of relaxation can be given prospectively but not retrospectively.
5. I have heard learned counsel for the parties and perused the documents.
6. Considering the fact that the issue has already been decided by the Division Bench in W.A. No.501 of 2022 and other connected matters where in the last paragraph, the Hon'ble Division Bench has observed that the petitioners would be entitled to be appointed pursuant to the advertisement dated 9.3.2019 and it has been given retrospective effect. Therefore, in the light of the judgment passed by the Hon'ble Division Bench of this Court, these petitions are allowed and the order passed by respondent No.3 – District Education Officer (Annexure-P/1) whereby the candidatures of the petitioners were rejected, are hereby set aside holding that the SC/ST/OBC candidates are entitled to 5% relaxation in their academic qualifications and such of the writ petitioners who would consequently fulfill the minimum qualification shall be entitled to be appointed pursuant to the advertisement dated 09.03.2019.

Sd/-

(Rakesh Mohan Pandey)
Judge