

ITEM NO.78

COURT NO.12

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 132/2016

RAJNEESH KUMAR PANDEY & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

MR. RISHI MALHOTRA (AMICUS CURIAE]

IA No. 50471/2021 - APPLICATION FOR PERMISSION

IA No. 37238/2021 - APPLICATION FOR PERMISSION

IA No. 249910/2023 - APPLICATION FOR PERMISSION

IA No. 123252/2020 - APPLICATION FOR PERMISSION

IA No. 74824/2021 - APPLICATION FOR PERMISSION

IA No. 190123/2019 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 116366/2022 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 113310/2022 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 23736/2019 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 82136/2024 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 97659/2018 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 174218/2018 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 146547/2019 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 146274/2019 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 16355/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 115912/2018 - CLARIFICATION/DIRECTION

IA No. 21055/2018 - CLARIFICATION/DIRECTION

IA No. 21822/2024 - CLARIFICATION/DIRECTION

IA No. 97663/2018 - CLARIFICATION/DIRECTION

IA No. 141285/2023 - CLARIFICATION/DIRECTION

IA No. 98958/2022 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 78979/2022 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 22022/2024 - EXEMPTION FROM FILING O.T.

IA No. 173591/2019 - EXEMPTION FROM FILING O.T.

IA No. 128163/2017 - EXEMPTION FROM FILING O.T.

IA No. 2/2016 - EXEMPTION FROM FILING O.T.

IA No. 16358/2020 - EXEMPTION FROM FILING O.T.

IA No. 9/2017 - EXEMPTION FROM FILING O.T.

IA No. 30082/2018 - GRANT OF INTERIM RELIEF

IA No. 74820/2021 - GRANT OF INTERIM RELIEF

IA No. 86670/2016 - IA FOR IMPLEADMENT

IA No. 27854/2017 - IMPLEADMENT, DIRECTION, OT

IA No. 98109/2018 - INTERVENTION APPLICATION

IA No. 126356/2017 - INTERVENTION APPLICATION

IA No. 166257/2023 - INTERVENTION APPLICATION

IA No. 97652/2018 - INTERVENTION APPLICATION
 IA No. 141284/2023 - INTERVENTION APPLICATION
 IA No. 146263/2019 - INTERVENTION/IMPLEADMENT
 IA No. 74381/2021 - INTERVENTION/IMPLEADMENT
 IA No. 245958/2024 - INTERVENTION/IMPLEADMENT
 IA No. 107257/2018 - INTERVENTION/IMPLEADMENT
 IA No. 98708/2019 - INTERVENTION/IMPLEADMENT
 IA No. 190121/2019 - INTERVENTION/IMPLEADMENT
 IA No. 90592/2024 - INTERVENTION/IMPLEADMENT
 IA No. 21051/2018 - INTERVENTION/IMPLEADMENT
 IA No. 89715/2024 - INTERVENTION/IMPLEADMENT
 IA No. 12758/2019 - INTERVENTION/IMPLEADMENT
 IA No. 173590/2019 - INTERVENTION/IMPLEADMENT
 IA No. 97018/2022 - INTERVENTION/IMPLEADMENT
 IA No. 82130/2024 - INTERVENTION/IMPLEADMENT
 IA No. 174217/2018 - INTERVENTION/IMPLEADMENT
 IA No. 146544/2019 - INTERVENTION/IMPLEADMENT
 IA No. 28942/2024 - INTERVENTION/IMPLEADMENT
 IA No. 97651/2018 - INTERVENTION/IMPLEADMENT
 IA No. 30187/2018 - INTERVENTION/IMPLEADMENT
 IA No. 129598/2018 - INTERVENTION/IMPLEADMENT
 IA No. 146273/2019 - INTERVENTION/IMPLEADMENT
 IA No. 16351/2020 - INTERVENTION/IMPLEADMENT
 IA No. 74815/2021 - INTERVENTION/IMPLEADMENT
 IA No. 128768/2022 - INTERVENTION/IMPLEADMENT
 IA No. 22058/2024 - INTERVENTION/IMPLEADMENT
 IA No. 246688/2024 - INTERVENTION/IMPLEADMENT
 IA No. 6824/2021 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES
 IA No. 131315/2018 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES
 IA No. 6/2017 - PERMISSION TO FILE ANNEXURES
 IA No. 3/2017 - PERMISSION TO FILE ANNEXURES
 IA No. 28659/2024 - PERMISSION TO FILE APPLICATION FOR DIRECTION
 IA No. 1/2016 - PERMISSION TO FILE LENGTHY LIST OF DATES
 IA No. 3920/2024 - RECALLING THE COURTS ORDER

WITH

CONMT.PET.(C) No. 591/2022 in W.P.(C) No. 132/2016 (X)
 FOR EXEMPTION FROM FILING O.T. ON IA 136828/2022
 FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA
 156466/2022
 FOR EXEMPTION FROM FILING O.T. ON IA 157707/2022
 FOR impleading party ON IA 5722/2023
 FOR INTERVENTION/IMPLEADMENT ON IA 5722/2023
 FOR EXEMPTION FROM FILING O.T. ON IA 5723/2023
 FOR impleading party ON IA 31726/2023
 FOR INTERVENTION/IMPLEADMENT ON IA 31726/2023

FOR impleading party ON IA 156274/2024
 FOR INTERVENTION/IMPLEADMENT ON IA 156274/2024
 FOR EXEMPTION FROM FILING O.T. ON IA 156275/2024
 IA No. 5723/2023 - EXEMPTION FROM FILING O.T.
 IA No. 157707/2022 - EXEMPTION FROM FILING O.T.
 IA No. 136828/2022 - EXEMPTION FROM FILING O.T.
 IA No. 156275/2024 - EXEMPTION FROM FILING O.T.
 IA No. 156274/2024 - INTERVENTION/IMPLEADMENT
 IA No. 31726/2023 - INTERVENTION/IMPLEADMENT
 IA No. 5722/2023 - INTERVENTION/IMPLEADMENTS
 IA No. 156466/2022 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES

CONMT.PET.(C) No. 856/2023 in W.P.(C) No. 132/2016 (X)
 (IA No. 62867/2023 - EXEMPTION FROM FILING O.T.)

Diary No(s). 10073/2024 (X)8
 (IA No. 75509/2024 - CONDONATION OF DELAY IN FILING & IA No.
 55972/2024 - EXEMPTION FROM FILING O.T.)

Diary No(s). 27076/2024 (X)

Diary No(s). 40533/2024 (X)
 (IA No. 201178/2024 - CONDONATION OF DELAY IN FILING)

Diary No(s). 46243/2024 (X)

Diary No(s). 51158/2024 (X)
 (IA No. 252704/2024 - CONDONATION OF DELAY IN FILING)

W.P.(C) No. 876/2017 (X)
 (IA No. 29329/2018 - EXEMPTION FROM FILING O.T., IA No. 7557/2019 -
 INTERVENTION/IMPLEADMENT & IA No. 29969/2018 -
 INTERVENTION/IMPLEADMENT)

W.P.(C) No. 1099/2023 (X)
 (FOR ADMISSION)

Date : 07-03-2025 These matters were called on for hearing today.

CORAM :

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UPON hearing the counsel the Court made the following
O R D E R

In spite of the judgment passed by this Court on 28.10.2021 and the directions contained in paragraph 57 of the judgment [paragraph 72 of the reported judgment (2021) 17 SCC 1] and then subsequently the orders dated 21.07.2022 and 12.03.2024 passed by this Court, none of the States or Union Territories ('UTs') have made any appointments on the sanctioned posts for Special Teachers. In fact, a large majority of the States have not even identified the sanctioned posts required in the State, in spite of the fact that now we have the figures in each of the States having children with special needs.

The figure of children with special needs in each of the States and UTs, which we presently have before this Court (which

may at present vary but only slightly) is as follows:-

S.No.	State	Figures
1	Andhra Pradesh	82227
2	Arunchal Pradesh	3038
3	Assam	55908
4	Bihar	85344
5	Chandigarh UT	3336
6	Chhattisgarh	73765
7	Delhi	32398
8	Goa	3059
9	Gujarat	36710
10	Haryana	21111
11	Himachal Pradesh	8858
12	Jharkhand	45598
13	Karnataka	43719
14	Kerala	123831
15	Madhya Pradesh	120764
15	Maharashtra	Information not provided
17	Manipur	4078
18	Meghalaya	3741
19	Mizoram	3741
20	Nagaland	4084
21	Odisha	86689
22	Punjab	47979
23	Rajasthan	71929
24	Sikkim	1125
25	Tamil Nadu	100460
26	Telangana	32794
27	Tripura	3715
28	Uttarakhand	4575
29	Uttar Pradesh	301718
30	West Bengal	135796
31	A&N Islands	716
32	Dadra Nagar Haveli and Daman	765
	Diu	
33	J&K	19035
34	Ladakh	730
35	Lakshadweep	134
36	Puducherry	Information not provided

In the judgment dated 28.10.2021, it was left to the Central Government to come out with a teacher-pupil ratio in such schools with special children and the ratio which we have been given by the

Central Government is 1:10 for a primary school and 1:15 for middle and secondary schools respectively. Once we have the teacher-pupil ratio with us and also the figures as to the number of children with special needs in each of the States and UTs, by this time, each of the States and UTs should have at least identified the number of sanctioned posts. Under these circumstances, the 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 of qualified/competent/eligible teachers only. Further, the requirement of RCI¹ qualification certificate also needs to be taken into account for appointment to the post as directed by this Court in its judgment dated

¹ Rehabilitation Council of India

28.10.2021, as a candidate not having RCI Certificate shall be ineligible.

Meanwhile, we have been informed that in many of the States and Union Territories, adhoc teachers on contractual basis are presently imparting education and taking classes of children with special needs. We have also been informed that in some of the States, these teachers have been continuing for the last 20 years, approximately. For these reasons, the States shall immediately constitute a Screening Committee consisting of the following:

1. State Commissioner for Persons with Disabilities (for short 'Disability Commissioner') appointed under Section 79 of Rights of Persons with Disabilities ('RPwD') Act, 2016.
2. Secretary, Education of the concerned education department;
3. A nominee of the RCI who will be a competent person having knowledge in the prescribed area.

This shall be the three-member committee for each of the States and UTs.

We make it very clear that in case there is no disability commissioner available in any State, in that case only he/she shall be substituted by the Legal Representative (LR) or the law Secretary of the State concerned.

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.

Let all of this be completed within a period of twelve weeks from today which will include the three weeks for the sanctioned posts which have to be identified. We make it absolutely clear that the benefits of pay scale will only be prospective and not retrospective i.e. from the date of their such appointment after selection. They will be appointed against the sanctioned posts and shall be given the pay-scale which is to be given on that post only after screening.

It is made clear that those State where posts have already been sanctioned should immediately start the selection process.

We also make it clear that in some of the States such as Sikkim, Arunachal Pradesh, Nagaland and Manipur which are represented today through their respective counsel(s) before this Court and have stated that there have been some logistical problems

for the appointment of trained teachers in their State too. All the same, they shall initiate the exercise, which shall be subject to the availability of teachers with qualifications as indicated above.

List on 15.07.2025.

(NIRMALA NEGI)
ASSTT.REGISTRAR-cum-PS

(RENU BALA GAMBHIR)
ASSISTANT REGISTRAR