

REVISED

ITEM NO.301 Court 6 (Video Conferencing)

SECTION III-A

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

Civil Appeal No(s). 8300/2016

SANJAY SINGH & ORS.

Appellant(s)

VERSUS

STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(IA No. 74387/2020 - CLARIFICATION/DIRECTION  
IA No. 74389/2020 - EXEMPTION FROM FILING AFFIDAVIT  
IA No. 26240/2020 - MODIFICATION OF COURT ORDER)

WITH SLP(C) No. 26701/2019 (FOR ADMISSION and I.R.)

SLP(C) No. 2644/2020 (FOR ADMISSION and I.R.)

SLP(C) No. 5859/2020

(IA No. 57523/2020 - EXEMPTION FROM FILING AFFIDAVIT  
IA No. 65605/2020 - EXEMPTION FROM FILING AFFIDAVIT  
IA No. 57522/2020 - INTERVENTION/IMPLEADMENT  
IA No. 12129/2020 - INTERVENTION/IMPLEADMENT  
IA No. 3302/2020 - INTERVENTION/IMPLEADMENT  
IA No. 65604/2020 - INTERVENTION/IMPLEADMENT  
IA No. 3644/2020 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 8484/2020

(IA No. 65610/2020 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 55043/2020 - EXEMPTION FROM FILING AFFIDAVIT  
IA No. 65612/2020 - EXEMPTION FROM FILING AFFIDAVIT  
IA No. 65224/2020 - EXEMPTION FROM FILING AFFIDAVIT  
IA No. 63658/2020 - EXEMPTION FROM PAYING COURT FEE  
IA No. 63908/2020 - INTERVENTION/IMPLEADMENT  
IA No. 63655/2020 - INTERVENTION/IMPLEADMENT  
IA No. 65608/2020 - INTERVENTION/IMPLEADMENT  
IA No. 65223/2020 - INTERVENTION/IMPLEADMENT  
IA No. 55034/2020 - PERMISSION TO FILE ADDITIONAL  
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SLP(C) No. 11074/2017

(IA No. 4273/2019 - APPROPRIATE ORDERS/DIRECTIONS)

SLP(C) No. 19561-19562/2019

(IA No. 48618/2020 - APPROPRIATE ORDERS/DIRECTIONS)

SLP(C) No. 19559/2019  
(FOR ADMISSION and IA No.114322/2019-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 25118/2019

C.A. No. 7403/2018  
(IA No. 100424/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT  
IA No. 100425/2018 - EXEMPTION FROM FILING O.T.)

C.A. No. 1655-1656/2019  
(IA No. 127971/2018 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 7176-7177/2019

SLP(C) No. 15087/2017  
(FOR EXEMPTION FROM FILING O.T. ON IA 39859/2017)

C.A. Nos. 8301/2016, 10454/2016, 2827/2017 and 7849/2017

Date : 26-08-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE K.M. JOSEPH

For Appellant(s)      Mr. Ajay Kumar Mishra, Sr. Adv./AAG  
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Mr. Robin Khokhar, AOR  
Mr. K.K.L.Gautam, Adv.  
Mr. Kumar Gaurav, Adv.  
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Ms. Ritu Reniwal, Adv.  
Mr. Mahendra Kumawat, Adv.

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Ms. Avishi Dhaka, Adv.  
Mr. Shrish Kumar Misra, AOR

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Mr. Sanjay Kumar Chaurasia, Adv.

Mr. Rakesh Mishra, AOR

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Mr. Dinesh Pandey, Adv.  
Mr. Manu Parashar, Adv.

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

Heard learned counsel for the parties.

All the appeals and special leave petitions are  
disposed of in terms of the signed order.

Pending applications shall also stand disposed of.

(ANITA MALHOTRA)  
COURT MASTER

(ANITA RANI AHUJA)  
ASSISTANT REGISTRAR

(Signed order is placed on the file.)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8300 OF 2016

SANJAY SINGH & ORS. ... APPELLANT(S)

VERSUS

STATE OF UTTAR PRADESH & ORS. ... RESPONDENT(S)

WITH

SLP(CIVIL)Nos.26701/2019, 2644/2020, 5859/2020, 8484/2020  
11074/2017,19561-19562/2019, 19559/2019, 25118/2019,  
7176-7177/2019, 15087/2017, CIVIL APPEAL NOS.7403/2018,  
1655-1656/2019, 8301/2016, 10454/2016, 2827/2017, 7849/2017

O R D E R

1. The present dispute is a reflection of the mess in the education system where starting from the primary level to the highest level adhocism seems to prevail in the appointment of teachers and lecturers in turn having consequences for the students who need to benefit from the best education process. That has not been so.

2. It is in the aforesaid circumstances that the impugned judgment (Writ Petition No.655 of 2014 Abhishek Tripathi vs. State of U.P. through Secy.Secondary Education, Lko. & Ors. decided on 17th December, 2015) has been rendered to bring an end to the adhocism which was prevailing. The impugned judgment recognizes the mess which is created to which all are contributory but ultimately deemed it proper to decline relief.

3. We have been hearing this matter from time to time to find the solution. We may say at the inception that we are not in disagreement with what has been set out in the impugned judgment but then this Court has the benefit of Article 142 of the Constitution of India to do complete justice between the parties and we are taking recourse to this to deal with the mess which is before us i.e. a complete adhocism in the working of the education system whereby TGTs and lecturers have been working for years and decades without a regularization. We do find that everyone is to blame for this scenario as what was an adhoc arrangement never fructified in the proper regularization or by holding examination in which recruitment could take place. If the recruitments did take place, that was periodic in terms of examination held after long period of time.

4. We have heard learned counsel for the parties at length earlier and even today to find a solution to the problem. Our attention has also been drawn to the last additional affidavit filed by the State of Uttar Pradesh and what emerges is that the State proposes to hold a competitive examination for recruitment of 15000 TGTs and lecturers both (if there are more existing vacancies reported as per rules, the Commission should take care to advertise even for those vacancies). Insofar as the parties before us are concerned, whether as appellants/petitioners or as interventionist, on verification it was found that there are 659 persons before this Court and out of them information regarding 112 persons could not be traced out in absence of details. The details are available only for 547 adhoc teachers (in view of appellants disputing, this

is subject to further verification) being 84 lecturers and 463 TGT grade teachers as set out in paragraph 11 of this affidavit.

5. We did debate the issue whether a separate examination should be held for such persons or whether they should participate in the prospective examination process. Normally the difficulty arises on account of the age bar but i.e. undisputedly not a factor in the present case as everybody will be permitted to appear. At times separate examinations have been held in different situations but in the present case we are not concerned with persons who are working at a trade and have been away from the academics since the very nature of job of teaching envisages a continued academic pursuit and improving your skills in teaching.

6. A concern has been expressed by learned counsel for the appellants and applicants that there may be persons who may have rendered long period of service as adhoc and if they really participate in the examination and are even successful, they may not get benefit of the past service, specially retirement benefits, as some of them may be near the age of retirement than the fresh candidates.

7. It is in the conspectus of all the aforesaid circumstances that we consider appropriate to issue the following directions in exercise of power under Article 142 of the Constitution of India:

- (a) All the petitioners/appellants and applicants before us and for that matter all persons eligible under the advertisement will be permitted to appear for one single examination.

- (b) Such of the persons who are successful, would have to go through a process of interview insofar as the post of lecturers is concerned, as we are informed that the post of TGTs the interviews have been dispensed with.
- (c) We are inclined to give some weightage to the persons who have worked as TGT and lecturers depending on the period of service rendered. It is respondent No.3-Commission which will have to tweak this aspect and work out giving some weightage to both TGT and lecturers depending on the period of service rendered. In the case of TGTs, such weightage will have to form a part of the total marks while in case of the lecturers such weightage can be given in the process of interview.
- (d) The advertisement to be issued should contain the terms of these directions issued by us today.
- (e) We make it clear that the decision as aforesaid will be final of the Commission and no further litigation will be entertained in respect thereof.
- (f) Insofar as the verification of past service is concerned, the concerned teachers/lecturers would give the particulars and details to the Commission

for obtaining such weightage and that aspect will be verified by the Commission in consultation with the State Government as we are told that it is the State Government which would have the wherewithal to do the needful. Needless to say that aspect will also be final without any further litigation being entertained in that behalf.

- (g) In view of the weightage given, for the same the examination process can be completed.
- (h) The other aspect is that apart from the weightage, the period which has been verified as having been spent in teaching as adhoc, would be counted for purposes of retiral benefits of the TGTs and Lecturers.

8. On having considered and on having issued the aforesaid directions, we also feel it is necessary to direct that we are not faced with such a situation in future. We would thus like to direct the State and the Commission to lay down a schedule for periodically holding examinations so that it creates employment opportunities and also the students are benefitted. We would require the Commission to not only take into consideration the existing but also future vacancies reported as per rules for purposes of holding such examinations in future. This should be strictly followed. The learned Advocate General states that this aspect is being taken care of.

9. In view of the petitioners/appellants in their own case having made the ground on the basis of Section 16-E(sub-section 11) of the Intermediate Education Act, 1971 that where teachers have been working for period against substantive vacancies temporarily, there is a provision to give benefits to them, we consider appropriate that the benefits of past service would be rendered only to such of the persons who have been appointed temporarily in accordance with the provisions of this Section. We expect the State to be fair in this matter in recognizing the various nature of vacancies which may have arisen.

10. We have also considered the prayer made in IA No.48618 of 2020 in SLP(Civil)Nos.19561-19562 of 2019. We have heard learned counsel for the parties on this aspect and have taken cognizance of the fact that there may be teachers/lecturers who are working and not paid for almost two years. The second concern is that till this examination process is completed, a prayer is made on behalf of the petitioners/appellants and the applicants that they should be permitted to continue.

11. On having examined the issue, we feel it will be appropriate to direct that the teachers/lecturers who are employed at present the TGTs and lecturers would continue to be so employed till the aforesaid process is completed and to the extent the financial benefits are given by the State Government to the institutions, against appointments made in compliance with Section 16-E (sub-section 11) of the Act, the same will also be given to provide succour to the TGT/lecturers.

12. We end with the hope that we will never be faced with the aforesaid situation again and the State Government and the Commission will also make every endeavour to ensure that the order is complied in its true intent and spirit and specially the aspect of holding examinations for the future taking into consideration all current and future vacancies reported as per rules is followed in times to come. We need not emphasize that education in a very important role performed by a State apart from the area of medical assistance to citizens and thus it is necessary that the full benefit is extended to the students which can only take place if the full strength of teachers is available at the requisite time. This in turn requires compliance with the aforesaid directions for the future.

13. Since there is always hope, we hope for a better future.

14. The aforesaid exercise by the Commission in consultation with the State Government should be completed well in time to ensure that at least in the session commencing in July, 2021 all teachers up to date are in place.

15. All the appeals and special leave petitions are disposed of in terms aforesaid.

16. All pending applications also stand disposed of.

.....J.  
[SANJAY KISHAN KAUL]

.....J.  
[K.M.JOSEPH]

NEW DELHI;  
August 26, 2020.

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