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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5777/2018 & CM APPL. 22523/2018

GOVT OF NCT OF DELHI AND ANR ..... Petitioners  
Through Mr. N. K. Singh, Adv. for Ms. Avnish  
Ahlawat, Adv.

versus

PREETI SHARMA AND ANR ..... Respondents  
Through Mr. Anuj Aggarwal and Mr. Tenzing  
Thinlay Lepcha, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE VIPIN SANGHI**

**HON'BLE MR. JUSTICE A. K. CHAWLA**

**ORDER**

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**08.03.2019**

The petitioner-Govt. of NCT of Delhi assails the order dated 21.02.2017 passed by the Central Administrative Tribunal, Principal Bench ('CAT') in OA No. 1383/2013.

The said OA had been preferred by 41 applicants. In the present writ petition, there are only two respondents namely, Ms. Preeti Sharma, who was applicant No.1 and Ms. Saroj Kumari, who was applicant No.8 in the OA.

At the outset, learned counsel for the petitioner states that the writ petition has become infructuous qua respondent No.2 Ms. Saroj Kumari, since she stands appointed as per the directions of this Court dated 25.07.2018 in the present writ petition. Therefore, the present writ petition survives only qua respondent No.1 Ms. Preeti Sharma.

The petitioner had issued an advertisement for filling-up post of

Special Education Teacher. The respondent No. 1 had made her application in the prescribed OMR form. The eligibility condition prescribed *inter alia* was that the candidates should have cleared the CTET qualification before the cut-off date. Though, the respondent No.1 had acquired the said qualification before the cut-off date, while filling-up the OMR form, on account of human error, she did not colour the bubble on the form and consequently, she was declared ineligible. She then approached the Tribunal to contend that her candidature has wrongly been rejected, as she had acquired the qualification before the cut-off date. Consequently, the Tribunal had allowed the OA qua respondent No.1.

It has been pointed out that there are large number of vacancies of Special Education Teacher and despite repeated efforts these are not being filled. There is dearth of Special Education Teachers in the schools in Delhi. Since the respondent No.1 was otherwise qualified and eligible, without going into the legal issues raised by the petitioner in the present writ petition, we dismiss the same, since we are not inclined to exercise our discretionary jurisdiction under Article 226 of the Constitution of India in the special facts of the case.

**VIPIN SANGHI, J**

**A. K. CHAWLA, J**

**MARCH 08, 2019**

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