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**(2011) 05 AHC CK 0295**

**Allahabad High Court**

**Case No:** Special Appeal Defective No. 474 of 2009

Karuna

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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Date of Decision: May 12, 2011

Acts Referred:

- Constitution of India, 1950 - Article 14

Hon'ble Judges: R.K. Agrawal, J; Bharati Sapru, J

Bench: Division Bench

Final Decision: Allowed

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### **Judgement**

@JUDGMENTTAG-ORDER

1. Heard Sri A.K. Tiwari, learned Counsel for the Appellant and Sri R.K. Saxena, learned Standing Counsel appearing for the Respondents. This appeal is directed against the order dated 12th December, 2008 passed by the learned Single Judge whereby the claim of the Petitioner-Appellant has been rejected on the ground that the Appellant is in possession of B. Ed degree obtained by her from outside the State of U.P. and hence she is not eligible for admission in Special B.T.C. course 2004.

2. The aforesaid issue was engaging the attention of this Court before a Full Bench and the same has delivered its opinion in the case of Jitendra Kumar Soni and Ors. v. State of U.P. and Ors. Civil Misc. Writ Petition No. 3733 of 2009 and other connection matters, decided on 13th August, 2010. The Full Bench of this Court while answering the questions referred to has held as follows:

(1) In answer to Question No. (a), it is not open to the State or the State authorities to exclude the students, who have obtained degree/diploma/certificate in LT/B.P. Ed./D.P. Ed./C.P. Ed. from Institutions/Universities established by law situate at place outside the State of Uttar Pradesh and duly recognized by the NCTE, from applying

either for the Special B.T.C. Course or B.T.C. Course. Any such exclusion is illegal. Question No, (a) is answered, accordingly.

(2) Insofar as Question No. (b) is concerned, the classification, if any, is unreasonable and violative of Article 14 of the Constitution of India. At any rate, the only ground given by the State Government for not putting restriction on B.Ed, degree, and putting restriction on LT/B.P.Ed./D.P.Ed./C.P.Ed., is not sustainable in terms of the rules of N.C.T.E., as the admission can only be based on merit.

(3) Insofar as Question No. (c) is concerned, the judgment in Vijay Kumar Kushwaha (supra) did not answer the issue of admission to Special B.T.C. Course, but dealt with the issue of appointment to the post of Assistant Teacher. Even otherwise, considering the findings on question Nos. (a) and (b), we will have to hold that the judgment in Vijay Kumar Kushwaha does not lay down the correct law.

3. In view of the reference answered by the Full Bench, the degree obtained by the Appellant from outside the State of U.P. would be admissible for the purpose of admission in Special B.T.C. Course, 2004 provided the Appellant otherwise fulfil the terms and conditions for admission relating to the aforesaid course. Accordingly, in the light of above, the appeal is allowed. The impugned judgment and order dated 12th December, 2008 in respect of the Appellant in this appeal is set aside. The Respondent No. 2 shall now consider the claim of Appellant in accordance with the observations made hereinabove and pass appropriate orders regarding admission of the Appellant within six weeks from the date of production of a certified copy of this order.