

HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.886 of 2022

Shri Debabrata Bhattacharjee,
S/o Shri Sambhunath Bhattacharjee,
West Joynagar, Road No.6.
Netaji Lane, P.O. Agartala, Pin-799001,
West Tripura.

....Petitioner(s)

Versus

- 1. Tripura Public Service Commission**
represented by Secretary, T.P.S.C., having his office at Akhaura Road,
P.O. Agartala, District-West Tripura, Pin-799001.
- 2. Secretary,**
Tripura Public Service Commission, having his office at Akhaura Road,
P.O. Agartala, District-West Tripura, Pin-799001.
- 3. The State of Tripura,**
represented by Principal Secretary to the Govt. of Tripura in the Higher
Education Department, having his office at New Capital Complex, P.O.
Kunjaban, Agartala, District-West Tripura, Pin-799010.
- 4. Director,**
Govt. of Tripura in the Higher Education Department, having its office at
Siksha Bhaban, Office Lane, P.O. Agartala, District-West Tripura, Pin-
799001.
- 5. Shri Pradip Dey,**
S/o Late Dinesh Dey, notice to be served through Principal, Government
Degree College, Gandacherra, P.O. Gandacherra, District: Dhalai, Pin-
799284.
- 6. Smt. Mahua Choudhury,**
D/o Shri Sunil Ranjan Choudhury, notice to be served through Principal,
Michael Madhusudan Datta College, Sabroom, P.O. Sabroom, District:
South Tripura, Pin-799145.
- 7. University Grant Commission,**
represented by its Chairperson, having its office at Bahadur Shah Zafar
Marg, New Delhi, Pin-110002, India.

....Respondent(s)

For the Petitioner(s)	:	Mr. T.D. Majumder, Sr. Advocate Mr. T. Halam, Advocate
For the Respondent(s)	:	Mr. M. Debbarma, Addl. GA Mr. Raju Datta, Advocate Mr. A. Bhaumik, Advocate
Date of hearing & delivery of judgment & order	:	20.02.2024
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE ARINDAM LODH
Judgment and Order (Oral)

By means of filing the instant writ petition, the petitioner has sought for following reliefs:

- "i. Issue rule upon the respondents and each one of them to show cause as to why a writ, in the nature of certiorari or like nature shall not be issued calling for records, relevant to the subject matter of proceedings from the custody of the respondents for the rendering substantial justice to quash the selection and appointment of private respondents to the post of Assistant Professor in Education, pursuant to the advertisement No.01/2021 dt. 08.02.2021 and addendum dated 30.04.2021 issued by the Tripura Public Service Commission.*
- ii. Issue rule upon the respondents and each one of them to show cause as to why a writ in the nature of mandamus be not issued directing the respondents No.1 and 2 to cancel the selection and recommendation of the private respondent No.5 and 6 for the post of Asst. professor in Education subject and further revise the select list and recommend the most suitable candidate in UR category for appointment of Asst. Professor in Education under the Government of Tripura in the Higher Education.*
- iii. Issue rule upon the respondents to show cause as to why a writ of mandamus be not issued directing the respondents and each one of them to cancel the selection and recommendation of the private respondents for appointment of Assistant Professor in Education, pursuant to the advertisement No.01/2021 dt. 08.02.2021 and addendum dated 30.04.2021 issued by the Tripura Public Service Commission.*
- iv. Issue rule upon the respondents to show cause as to why a writ of mandamus be not issued directing the Tripura Public Service Commission to revise the selection of respondent No.5 and 6 for the post of Asst. Professor in Education pursuant to the advertisement No.01/21 dt. 8.2.2021 and addendum dt. 30.04.2021 and recommend most suitable candidate in UR category as per inputs available with them.*
- v. Issue rule upon the respondents to show cause as to why a writ of mandamus be not issued directing the respondent No.1 and 2 to consider to appoint the petitioner in accordance with law on the*

basis of revised recommendation of the T.P.S.C. after cancelling the recommendation of the private respondents.

vi. Issue rule absolute in terms of prayer (i), (ii), (iii) and (iv) above;"

2. Facts:

2.1. The petitioner after successful completion of his graduation in B.A.(Hons) in the subject of Education had pursued his Master's Degree in the subject of Education, that is, M.A. in Education subject. He had acquired B.Ed. and M.Ed. degrees. Thereafter, he acquired Ph.D. in Education. He had also successfully cleared NET and NE-SET in the subject of Education. In response to an advertisement no.01/2021 for filling up 3(three) numbers of UR posts of Assistant Professor in the subject of Education along with other subjects like Bengali, English, Political Science, History, Sanskrit, Human Physiology, Zoology and Botany, the petitioner had submitted application to appear in the selection process for appointment in the discipline of Education. In the advertisement, selection procedure has been prescribed as per University Grant Commission Regulations, 2018(for short, UGC Regulations, 2018).

2.2. The petitioner along with others including the respondents no.5 and 6 had participated in the selection process against their respective subjects. When the results were declared, the petitioner did not find his name in the list of selected candidates published for Education subject. The petitioner found that the respondent no.5 having no educational/academic qualification in the subject of Education had been selected as Assistant Professor in the discipline of Education. The petitioner also raised his grievance against the selection of respondent no.6 on the plea that she did not fulfill the required criteria in terms of the aforesaid advertisement,

particularly, a plea has been taken by the petitioner that the research works of respondent no.6 were not published in the UGC-approved journals. No other grievance has been raised against respondent no.6. The petitioner had submitted representations narrating the aforesaid facts and requested the concerned authorities to cancel the appointment of respondents no.5 and 6 and also to revise the select list.

2.3. The Tripura Public Service Commission (for short, 'TPSC'), the State respondents as well as the private respondents no.5 and 6 have filed their respective counter affidavits denying the allegations levelled by the petitioner in the instant writ petition. The petitioner has filed Affidavits by way of Rejoinder and Supplementary affidavit. In their denial, the respondents have equated the educational/academic qualification with that of the professional qualification, i.e., they have equated the subject of Political Science with the subject of Education. According to the respondents, M.Ed.(Masters of Education) is equivalent to the M.A. Education. The respondent-TPSC has taken a stand that M.Ed.(Masters of Education) and M.A. Degree in the subject of Education are both Post-Graduate degree and there is no distinction between M.Ed. and M.A Education.

2.4. It is the case of the respondent no.6 that when her publications were published in the journals, at that point of time those journals were in the UGC-approved list, which, admittedly were delisted w.e.f. 02.05.2018 and UGC had also issued public notice in the year 2007 in this respect.

2.5. In the background of the aforesaid facts, I have heard Mr. T.D. Majumder, learned senior counsel assisted by Mr. T. Halam, learned counsel appearing for the petitioner. Also heard Mr. M. Debbarma, learned Addl. GA

appearing for respondents-State, Mr. Raju Datta, learned counsel appearing for respondent-TPSC and Mr. A. Bhaumik, learned counsel appearing for respondents no.5 and 6.

3. Submissions on behalf of the petitioner:

3.1. Mr. Datta Majumder, learned senior counsel for the petitioner, at the very outset has drawn my attention to the advertisement issued by the TPSC whereby and whereunder it was notified that the Government of Tripura would appoint Assistant Professor in the subject of Bengali, English, Political Science, Education, History, Sanskrit, Human Physiology, Zoology and Botany. Mr. Datta Majumder, learned senior counsel has submitted that 3(three) numbers of posts would be filled up for UR category candidates and both the petitioner and the respondents no.5 and 6 belonged to UR category candidates. Learned senior counsel for the petitioner has candidly submitted that the respondent no.5 does not possess educational/academic qualification in the subject of Education, but he has been preferred for selection against the subject of Education. Showing the records, Mr. Datta Majumder, learned senior counsel has drawn my attention that respondent no.5 had pursued his education all along in the subject of Political Science and he never studied in the subject Education. According to Mr. Datta Majumder, learned senior counsel for the petitioner, the subject of Education cannot be said equivalent to M.Ed. Degree as because it is a professional degree to improve the teaching experience and thus, respondent no.5 has not fulfilled the criteria as laid down in the advertisement as well as in the recruitment rules to be appointed in the post of Assistant Professor in the discipline of Education. Mr. Datta Majumder, learned senior counsel for the petitioner has also

challenged the appointment of respondent no.6 on the ground that she has not been able to publish her research publications in the UGC-CARE listed journals, and as such, she is also to be declared disqualified for the post of Assistant Professor. As per the procedure of allocation of marks, the respondent no.6 ought not to have awarded the mark prescribed for that purpose in the advertisement i.e. 6 marks, which is indicated in Annexure-B of the advertisement. Furthermore, 25 marks were wrongly awarded in favour of respondent no.5 for possessing Ph.D. Degree in the subject of Political Science to select him against Education subject, and if the said mark would not have been awarded in favour of the respondent no.5, the petitioner would have been selected. Ultimately, it is urged to quash the appointment of respondents no.5 and 6 who have been appointed as Assistant Professors in the subject of Education.

4. Submissions on behalf of the respondent-TPSC:

4.1. The respondent-TPSC has strongly defended its action in the matter of appointment of respondents no.5 and 6 as Assistant Professors in the subject of Education. According to the respondent-TPSC, M.Ed.(Masters of Education) is equivalent to M.A. Education and as such, API score has rightly been awarded in favour of the respondent no.5 for possessing M.Ed. Degree and 25 marks were also rightly given in favour of respondent no.5 for acquiring Ph.D. Degree in the subject of Political Science as per para 4.1 of the UGC Regulations, 2018.

4.2. According to learned counsel for respondent-TPSC, para 4.1 of UGC Regulations suggests that 25 marks may be given to a candidate having Ph.D. Degree irrespective of any discipline, which is also mentioned in the

advertisement. Mr. Datta, learned counsel for respondent-TPSC has submitted that the petitioner has never challenged the advertisement and rather, accepting the terms of the advertisement had appeared and participated in the selection process.

4.3. It is further submitted that the respondent no.5, namely, Pradip Dey has acquired B.Ed. as well as M.Ed. under Tripura University. Learned counsel has placed reliance upon a judgment rendered by Allahabad High Court, reported in *(2018) 5 SCC OnLine All 5940* wherein the Allahabad High Court has held that M.A. in Education is not equivalent to M.Ed. Degree, which decision has been set aside by the Hon'ble Supreme Court in *Anand Yadav and Ors. vs. State of Uttar Pradesh and Ors.*, reported in *(2021) 12 SCC 390* at para 37, where the Hon'ble Supreme Court held that both the degrees are equivalent.

5. Submissions on behalf of respondents no.5 and 6:

5.1. Mr. Bhaumik, learned counsel for respondents no.5 and 6 has argued the case in line of the submissions advanced by learned counsel appearing for the respondent-TPSC. Mr. Bhaumik, learned counsel has heavily relied upon the decision of the Hon'ble Supreme Court in *Anand Yadav(supra)* to justify the fact that M.A. in the subject of Education is equivalent to M.Ed. Degree for the post of Assistant Professor in Education, which is revealed in "ADDENDUM" dated 30th April, 2021. It is further submitted that the research publications made by respondent no.6 in the journals were recognized by UGC at that relevant period of time, since, those publications were made prior to 02.05.2018. For this purpose, Mr. Bhaumik, learned counsel for respondents no.5 and 6 has relied upon the Annexure-R/9

to their counter affidavit. Mr. Bhaumik, learned counsel has tried to clarify that the Annexure-B to the advertisement does not connote that Ph.D. Degree should be possessed in the concerned subject or discipline, and, the marks can be given for acquiring Ph.D. Degree irrespective of the subject. That apart, the petitioner having participated in the selection process has no right to challenge the methodology adopted by the TPSC for selection of candidates in the post of Assistant Professor. Mr. Bhaumik, learned counsel has further submitted that respondent no.5 has also acquired SET in the subject of Education apart from M.Ed.

6. I have considered the above submissions and perused the citations referred to by the learned counsel appearing for the parties.

7. **Analysis:**

7.1. The cardinal question to be decided in this writ petition is that whether M.A. in the subject of Education is equivalent to M.Ed. Degree(Masters of Education). By order dated 15.02.2024, this Court had requested the Registrar, Tripura University(Central) and the Members of Selection Committee to remain present in the Court today for certain clarifications to the issue in question. Today, the Registrar, Tripura University(Central) has appeared. However, the Members of Selection Committee have not appeared. In this circumstance, I proceeded to dispose of the matter today since both the parties have exchanged their respective affidavits and expressed their willingness to dispose of the matter.

7.2. During interaction, the Registrar, Tripura University(Central) has clarified that he also possesses his academic qualification in the subject of Political Science and acquired Ph.D. Degree in Political Science. Through

a selection process he has been appointed as Assistant Professor in the Tripura University(Central) in the discipline of Political Science and now he is holding the post of Registrar of the said University. To the query on the issue in question, Registrar, Tripura University(Central) has clarified that M.A. in Political Science is an academic/educational qualification which cannot be compared with possession of M.Ed. Degree, which is a professional degree. Again, the Registrar, Tripura University(Central) has informed this Court that he acquired Ph.D. Degree in Political Science which means that he is qualified to apply in the post of Assistant Professor in the subject of Political Science. On further query, the Registrar, Tripura University(Central) has clarified this Court that a person having pursued his academic course in the subject of Political Science and having Ph.D. Degree in the same subject cannot be appointed as Assistant Professor in the subject of Education because both the subjects are different and quite distinct.

7.3. After such clarification, I have dispensed with the appearance of the Registrar, Tripura University(Central) who is an expert in this line.

7.4. In the instant case, main challenge is that the respondent no.5 having possessed all the academic degrees in the discipline of Political Science including Ph.D. has been appointed as Assistant Professor against one of the 3(three) Unreserved (for short, “UR Category”) Category of posts in the subject of Education mentioned in the Advertisement No.01/2021. Admittedly, the respondent no.5 had pursued his academic career in the subject of Political Science at Graduation and Post Graduation level. He has obtained Ph.D. Degree in the subject of Political Science.

7.5. Keeping in view the disputes raised herein, I have perused the advertisement. The relevant portion of the advertisement may be reproduced hereunder:

“Online applications are invited from bonafide citizens of India for selection of candidates for recruitment to 40(forty) vacancies [SC-01,ST-21,PH-08 & UR-10] in the subject of Bengali, English, Political Science, Education, History, Sanskrit, Human Physiology, Zoology, Botany permanent posts of Assistant Professor, Group-A Gazetted, Government (General) Degree Colleges under the Education(Higher) Department, Government of Tripura in the scale of Revised Pay of Rs. 57,700(57,700-1,82,400/-) in the Academic Level-10 of the Pay Matrix of 7th CPC, subject to revision by the Govt. from time to time in the subject/disciplines as mentioned below:

Vacancies:-All permanent.

SI. No.	Name of the Subject/Discipline	Vacancy in the discipline as per 100 point roster				Total
		SC	ST	PH	UR	
1	2	3	4	5	6	7
1.	Bengali	Nil	03	01	Nil	04
2.	English	Nil	07	01	02	10
3.	Political Science	Nil	Nil	01	03	04
4.	Education	01	01	Nil	03	05
5.	History	Nil	02	01	02	05
6.	Sanskrit	Nil	03	01	Nil	04
7.	Human Physiology	Nil	03	01	Nil	04
8.	Zoology	Nil	01	01	Nil	02
9.	Botany	Nil	01	01	Nil	02
TOTAL		01	21	08	10	40

EDUCATIONAL & OTHER QUALIFICATIONS:

[I] ESSENTIAL QUALIFICATIONS:

A (i) A Master's Degree with at least 55% of the marks (or equivalent grade in a point-scale wherever the grading system is followed) in a concerned/ relevant/allied subject from an Indian University, or an equivalent degree from an accredited foreign University.

(ii) Besides fulfilling the above qualifications, the candidates should have cleared the National Eligibility Test (NET) conducted by UGC or the CSIR or a similar test accredited by the UGC like SLET/SET or who are or have been awarded a Ph.D. degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of M. Phil/ Ph.D. Degree) Regulations, 2009 or 2016 and their amendments from time to time as the case may be exempted from NET/SLET/SET.

Provided the candidates registered for the Ph.D. programme prior to July 11, 2009 shall be governed by the provisions of the then existing Ordinances/ By Laws/Regulations of the Institution awarding the degree and such Ph.D. candidates shall be exempted from the requirement of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions subject to the fulfillment of the following conditions:-

*** Selection procedure; The selection procedure will be governed as per Annexure-A & Annexure-B of the notified scheduled of the post of Assistant Professor Government General Degree Colleges.**

6. Decision of the Commission as to the eligibility or otherwise of a candidate at any stage of the selection process shall be final.

Annexure-A

Selection Procedure (as per latest UGC Regulation):

1. The overall selection procedure shall incorporate transparent, objective and credible methodology of analysis of the merits and credentials of the applicants of the applicants based on the weightage given to the performance of the different relevant parameters and his/her performance on a grading system proforma, based on Appendix-ii, table 3B of the UGC Regulation. 2018 as amended.
2. The Academic score as specified in Annexure-II, Table 3B for Colleges, shall be considered for short-listing of the candidates (Maximum 5 candidates for each post notified) for interview.
3. TPSC shall constitute selection Committee and fix qualifying cut off marks (if any) for interview.
4. As per State's New Recruitment Policy vide Notification No.F1 (435)-DHE/Estt(G)/2019/226(4) dated 16-01-2021, maximum of 15% weightage of total marks may be allocated for the interview/personality test for selection purpose.
5. Merit list will be formed by TPSC aggregating the 85% of marks obtained by the candidate as per API score and interview marks scored by the candidate and following other instruction in the latest UGC guideline.
6. Five members, including three subject experts, shall constitute the quorum of the Selection Committee.

Annexure-B

Criteria for Short-listing of candidates for Interview for the post of Assistant Professor in Colleges

Sl.No.	Academic Record	Score			
1.	Graduation	80% and above=21	60% to less than 80%=19	55% to less than 60%=16	45% to less than 55%=10
2.	Post-Graduation	80% and above=25	60% to less than 80%=23	55%(50% in case of SC/ST/OBC(non-creamy layer/PWD) to less than 60%=20	
3.	M.Phil	60% and	55% to less than 60%=05		

		above=07	
4.	Ph.D.	25	
5.	NET with JRF	10	
	NET	08	
	SLET/SET	05	
6.	Research Publications (2 marks for each research publications published in Pre- Revised of UGC-listed Journals)	06	
7.	Teaching/Post Doctoral Experience (2 marks for one year each)#	10	
8.	Awards		
	International /National Level (Awards given by International Organizations/Govern ment of India/ Government of India recognized National Level Bodies	03	
	State-Level (Awards given by State Government)	02	

#However, if the period of teaching/ post-doctoral experience is less than one year then the marks shall be reduced proportionately.

Note:- (A) (i) M.Phil+Ph.D –Maximum - 25 Marks
(ii)JRF/NET/SET---Maximum - 10 Marks
(iii) In awards category-Maximum -03 Marks

(B) Number of candidates to be called for interview shall be decided by the college.

(C) Academic Score -----84
Research Publication-----06
Teaching Experience-----10

TOTAL----- 100

(D) SLET/SET score shall be valid for appointment in respective State Universities/Colleges/Institutions only.”

7.6. In terms of the Annexure-B mentioned above, 25 marks has been allocated under Column no.4 for acquisition of Ph.D. Degree in respect of the candidates. Now, the question falls for consideration whether 25

marks should have been awarded in favour of respondent no.5 for possessing Ph.D. Degree in the subject of Political Science. Admittedly, advertisement has been made for appointment for filling up the post of Assistant Professor in the subject of Education as well as in the subject of Political Science.

7.7. In my opinion, since undisputedly, the private respondent no.5, Sri Pradip Dey has not possessed Ph.D. Degree in the subject of Education, he should not have been awarded 25 marks for his acquisition of Ph.D. Degree in the subject of Political Science for the purpose of filling up of the post of Assistant Professor in the subject of Education.

7.8. To make it clear, I have minutely perused para 37 of the judgment rendered in the case of *Anand Yadav(supra)*, which reads as under:

*“37. We may note that, sometimes, without looking into the real ratio decidendi, a judgment is followed as a precedent. This is what appears to have happened in the impugned order [Sanjai Kumar Dubey v. State of U.P., 2018 SCC OnLine All 5940] . There are even some other judgments of the High Courts, which in turn were then sought to be relied upon to canvas a proposition that there is a widespread acceptance of MEd not being equivalent to MA (Education). **That they are two different degrees is obvious; this is even recognised by NCTE while emphasising the subtle distinction between the two degrees as one being a Master's degree but not a professional degree, while the other being a professional degree.** If the two degrees are identical, there is no question of equivalence. The issue of equivalence only arises when there are two different degrees and what is to be decided whether for certain purposes they can be treated as equivalent. This is exactly what has happened as a result of the respective expert committees set up by Respondents 2 & 5. The employer i.e. Respondent 2, had accepted the recommendation of the expert committee. The UGC has also taken a stand that insofar as the two degrees are concerned, both are postgraduate degrees, and the equivalence authority being Respondent 5 has also opined on the basis of an expert committee, that the two can be treated as equivalent for the post of Assistant Professor in Education. Thus, it is neither for the contesting party i.e. Respondent 3, nor for this Court to sit as a court of appeal over the decision of the experts. We may also note that Respondent 3 has in fact been selected in the 2014 selection process as per the final list released on 22-5-2018.”*

7.9. On meticulous reading and thoughtful consideration of the aforesaid observations of the Hon'ble Supreme Court, in my opinion, it is

clear that both M.A.(Master of Arts) in Education and M.Ed.(Master of Education) are Post-Graduate degrees, but, M.A. in Education or for that matter, M.A. in other Arts subjects are academic courses and after the completion of such courses one will acquire academic/educational qualification in the respective subjects. On the other hand, B.Ed./M.Ed. is a professional course and after successful completion one acquires professional degree. By no stretch of imagination, it can be held that a person having no academic qualification/educational degree in the concerned subject can be appointed as Assistant Professor in that subject only on the basis of acquisition of professional degree. The academic/educational qualification should be acquired/possessed in a particular subject. Ph.D. also is being pursued in the particular subject in which one acquires Masters Degree.

8. Accordingly, I repel the submissions of learned counsel for respondent-TPSC and respondents no.5 and 6 that M.A. in the subject of Education is equivalent to M.Ed. being the former is an academic qualification and the later being a professional qualification.

9. In the opinion of this Court, M.Ed. cannot be substituted for M.A.(Masters of Arts) in the subject of Education.

10. In the case of *Anand Yadav(supra)* at para 31, the Hon'ble Supreme Court has made the issue very clear that the question of equivalence, as submitted by Respondent 4, UGC was to be left to NCTE where the NCTE **has drawn a distinction between the two degrees to the extent that while M.A. (Education) is a degree in the discipline of Education and the M.Ed. degree is a practitioner's degree. Though, both**

the degrees are Post-Graduate degrees, but, one is directly relatable to the concerned subject.

[Emphasis supplied]

11. This view of mine is further fortified by the decision of the Hon'ble Supreme Court in *Dr. M.S. Mudhol and Anr. vs. S.D. Halegkar and Ors.*, reported in (1993) 3 SCC 591 wherein the Hon'ble Supreme Court at para 4 has rejected the contention of the respondents that *M.A. 2nd Division is equivalent to M.Ed. 2nd Division is obviously fallacious. The former is the academic qualification while the latter a professional qualification.*[SCC p 593 para 4].

[Emphasis supplied]

12. For further appreciation of the argument advanced by learned counsel appearing on behalf of the respondents, I deem it fit to take note of the National Council for Teacher Education Notification dated 28.11.2014 which has been published in the *Gazette of India: Extraordinary [Part III-SEC.4]*.

12.1. It is pertinent to mention herein that the said notification dated 28.11.2014 had been issued in exercise of the powers conferred by Sub-section (2) of Section 32 of the National Council for Teacher Education Act, 1993(73 of 1993), and in supersession of the National Council for Teacher Education[Recognition Norms and Procedure] Regulations, 2009 and the Regulations made under the said notification is called as the National Council for Teacher Education(Recognition Norms and Procedure) Regulations, 2014(here-in-after referred to as "NCTE Regulations, 2014).

12.2. Regulation 9 of NCTE Regulations, 2014 deals with the “**Norms and Standards**” of various teacher education programmes which are specified in Appendix 1 to Appendix 15. Regulation 9 of NCTE Regulations, 2014 may be reproduced here-in-under, for convenience, in *extenso*:

“9. Norms and standards. –Every institution offering the following programmes shown in the Table shall have to comply with the norms and standards for various teacher education programmes as specified in Appendix 1 to Appendix 15

12.3. In the case in hand, Appendix 4 and 5 are relevant considering the disputes raised in the present case. Appendix 4 and 5 deals with “**Bachelor of Education programme leading to Bachelor of Education(B.Ed.) Degree and Master of Education programme leading to Master of Education(M.Ed.) Degree**” which is shown in tabular form:

Sl. No.	Norms and Standards	Appendix No.
*****	*****	*****
4.	Bachelor of education programme leading to Bachelor of Education(B.Ed.) degree	Appendix-4
5.	Master of education programme leading to Master of Education(M.Ed.) degree	Appendix-5
*****	*****	*****

12.4. Appendix 4 of Regulation 9 of NCTE Regulations, 2014 dealing with the ‘**Norms and Standards for Bachelor of Education programme leading to the Bachelor of Education(B.Ed.) Degree**’ starts with a preamble where the NCTE clearly envisages that “*the Bachelor of Education programme, generally known as B.Ed., is a professional course that prepares teachers for upper primary or middle level (classes VI-VIII),*

secondary level(Classes IX-X) and senior secondary level(Classes XI-XII)”
{Ref.: The Gazette of India: Extraordinary [Part III-SEC.4 page 114]}.

12.5. Similarly, preamble embodied in Appendix 5 of Regulation 9 under NCTE Regulations, 2014 dealing with the ‘*Norms and Standards for Master of Education Programme leading to Master of Education(M.Ed.) Degree*’ expressly crystallizes that *the Master of Education(M.Ed.) programme is a two-year professional programme in the field of Teacher Education which aims at preparing teacher educators and other education professionals including curriculum developers, educational policy analysts, planners, administrators, supervisors, school principals and researchers.* The eligibility for pursuing M.Ed. requires candidates to have obtained at least 50% marks or an equivalent grade in B.Ed.

12.6. Clause 4.2 of Appendix 5 under Regulation 9 of NCTE Regulations, 2014 deals with “**Eligibility**” for admission in M.Ed. course, which is reproduced hereunder:

“4.2. Eligibility

(a) *Candidates seeking admission to the M.Ed. programme should have obtained at least 50% marks or an equivalent grade in the following programmes:*

- (i) *B.Ed.*
- (ii) *B.A., B.Ed., B.Sc., B.Ed.*
- (iii) *B.El.Ed.*
- (iv) *D.El.Ed. with an undergraduate degree(with 50% marks in each). ”*

12.7. It is clear from the above that to get admission in M.Ed. course, one must have possessed B.Ed. or B.A., B.Ed. or B.Sc., B.Ed. or B.El.Ed. or D.El.Ed. with an undergraduate degree. So, M.Ed. is undoubtedly a Post-Graduate degree to be pursued by aspiring school or college teachers to learn

the art and science of teaching. In other words, these are the courses required to improve skills in teaching profession.

13. “Education” is a subject which comprises one of the core branches of Arts stream and Master of Arts in Education i.e. M.A in Education subject is an academic course. To get Ph.D. in Education one has to obtain a Bachelor’s degree in Education subject from an accredited University. In the instant case, the petitioner obtained Ph.D. degree in Education subject after completion of B.A. and M.A. in Education subject, a specialized subject in Arts stream. On the other hand, the respondent no.5 had completed B.A. and M.A. in Political Science subject, another specialized subject in Arts stream, and thereafter, pursued his Ph.D. in Political Science. Both the petitioner and the respondent no.5 had acquired Master of Education(M.Ed.), which, I have already held as being a professional course. Except both being a Post-Graduate degree, there is ocean of difference between the two courses; as a matter of re-iteration, Master of Arts in the subjects of Education and Political Science is being pursued to acquire/possess academic qualification. Any person after acquiring academic qualification in any subject, be it the subjects in Arts or science and aspiring to join teaching profession can pursue B.Ed. or M.Ed., as I said earlier, to improve skills in teaching.

14. Master of Education, in my opinion, means gathering of sufficient knowledge by a person in the system of providing education, the arts of qualitative teaching to the students, the improvised skills of understanding students’ psychology. By possessing M.Ed. degree one puts himself in an advantageous position because it empowers to get jobs as

Professor, Lecturer, School Principal, Curriculum developers and subject experts as it trains in curriculum development and administration roles. By doing M.Ed. a person qualifies for senior profiles because it is an advanced degree in the education field.

15. Admittedly, the private respondent no.5 has possessed his academic qualifications including Ph.D. in the subject of Political Science and not in the subject of Education. So, short-listing his name for selection as Assistant Professor in the discipline of Education is *per se* illegal, arbitrary and cannot be approved in any manner whatsoever on the pretext that respondent no.5 possessed M.Ed. Even, under UGC Regulations, 2018, marks will be awarded against different academic qualifications a candidate obtains at different levels relevant for appointment to the post of Assistant Professor and not for acquiring professional qualification.

16. Furthermore, it reveals that UGC Regulations, 2018 does not contain or, to say it otherwise, has not made any provision allocating any marks for possession of professional degree like Bachelor of Education (B.Ed.) and Master of Education (M.Ed.).

17. Reference being made to the issuance of the Addendum dated 30th April, 2021, Mr. Datta, learned counsel appearing for TPSC adding an additional criteria submits that under the said Addendum, M.Ed. degree had been made equivalent to M.A. in Education subject and for that reason, candidates possessing either of the said two degrees were eligible for recruitment to the post of Assistant Professor in the subject of Education. Learned counsel for TPSC has referred to following decision of the TPSC from the Addendum dated 30.04.2021 “(1) *For the post of Assistant*

Professor in Education in Degree Colleges candidates who have NET/SLET/SET/Ph.D. in Education besides M.A. Education or M.Ed.”, which in my opinion, does not constitute any reasonable meaning, and inclusion of M.Ed. as an alternative qualification to fill up the post of Assistant Professor in the subject of Education is a misnomer and contrary to UGC Regulations, 2018. In the opinion of this Court, M.Ed. can in no way be an alternative to Master of Arts in Education. Noticeably, Table-3B dealing with “Criteria for short-listing of candidates for Interview for the post of Assistant Professors in Colleges” under University Grants Commission Notification dated 18th July, 2018 [Annexure-R/14 to the counter affidavit] does not provide the degree of B.Ed or M.Ed. under the “Academic Record” column to count in the Academic Performance Indicator [API] score.

18. More importantly, Annexure-A dealing with “Selection Procedure (as per latest UGC Regulations)” enclosed to the relevant Advertisement No.01/2021[Annexure-1 to the writ petition] clearly stipulates that:

“2. The Academic score as specified in Annexure-II, Table 3B for Colleges, shall be considered for short-listing of the candidates (Maximum 5 candidates for each post notified) for Interview.”

So, from the above procedure described in Annexure-A, it is crystal clear that academic score will be counted in terms of the specification mentioned in Table 3B for short-listing of the candidates for interview. It comes to fore that Annexure-B laying down the *Criteria for Short-listing of candidates for Interview for the post of Assistant Professor in Colleges* as enclosed to the Advertisement No.01/2021 issued by Tripura Public Service

Commission is in consonance/perennial to Table 3B of “*University Grants Commission Regulations on minimum qualifications for appointment of teachers and other Academic staff in University and Colleges and other measures for maintenance of standards in Higher Education 2018*” (For short, UGC Regulations, 2018) which has been framed in exercise of the powers conferred under clause (e) and (g) of sub-section(1) of Section 26 read with Section 14 of the University Grants Commissioner Act, 1956 [Ref:-*University Grants Commission Notification dated 18.07.2018, Annexure-R/14 to the counter affidavit filed by the respondents no.5 and 6*]. Most interestingly, a “Note” is noticed to be embodied under Para-4.1 laying down the eligibility criteria for “direct recruitment” of Assistant Professor which speaks as under:-

“*Note:- The Academic score as specified in Appendix-II(Table 3A) for Universities, and Appendix-II(Table 3B) for colleges, shall be considered for short-listing of the candidates for interview only, and the selections shall be based only on the performance in the interview.*”

So from the above “Note” it is clear that only Academic score secured by a candidate as specified in Table 3B of Appendix II of UGC Regulations, 2018 shall be short-listed for the purpose of interview. It is already said here-in-above that Table 3B does not contain any column for M.Ed. degree for the purpose of awarding mark. It is pertinent to mention herein that Annexure B to the advertisement No.01/2021 extracted at Para.7.5 of this judgment is *pari mataria* to Table 3 of Appendix II of UGC Regulations, 2018.

19. Again, under UGC Regulations, 2018, a penal provision has also been inserted in case of violation of any of the essential conditions as regards the minimum qualifications for appointment of College Teachers. Clause-3 of Regulation 1 of the UGC Regulations, 2018 clearly stipulates that if any University contravenes the provisions mentioned in UGC Regulations, 2018, the University Grants Commission *after taking into consideration the cause, if any, shown by the University for such failure or contravention, may withhold from the University, the grants proposed to be made out of the Fund of the Commission.*

20. Apart from what has emerged here-in-above, it is now settled that UGC is competent within its powers to take appropriate action against the universities and colleges in view of Section 24 of UGC Act, 1956, if any of the provisions of the Act and the Rules and Regulations thereof is violated or contravened. By way of incorporating the penal provisions under Para 1(3) of the UGC Regulation, 2018, the Legislature intended to make the provisions mandatory for recruitment of the eligible candidates to the post of Assistant Professor/Professor/Principal, etc against any particular subject/discipline. So, non-observance or non-compliance or to say it otherwise, any selection or recommendation and appointment made in contravention of any of the provisions laid down in UGC Regulations, 2018 shall render the decision-making process as well as the decision thereupon vitiated and be liable to be interfered with to remove the infirmity or the irregularity committed during the process. Furthermore, it is the bounden duty of the Court to construe the statutory provision in a way which makes

the provisions workable, advancing the very object and purpose of enactment of the statute.

21. Now, coming to the challenge in respect of appointment of respondent no.6 as Assistant Professor against one of the 3(three) UR posts in the subject of Education, I find that the period when the respondent no.6 had published her research works in the journals, those were care listed journals at that relevant period being recognized by the UGC, which, later on were delisted/removed from the recognized list of UGC approved journals w.e.f. 02.05.2018. In view of this, I am not inclined to interfere with the appointment of respondent no.6 to the post of Assistant Professor against one of the 3(three) UR posts in the subject of Education on this ground alone. In my opinion, the notification regarding removal of the journals which were approved prior to 02.05.2018 cannot have retrospective effect and it would operate prospectively. That apart, the UGC in the process of updating the List of Journals had clarified *that 4,305 journals which have been removed on 2nd May, 2018 were UGC-approved journals till that date and, as such, articles published/accepted in them prior to 2nd May 2018 by applicants for recruitment/promotion may be considered and given points accordingly by universities*[Annexure R/9 to the counter affidavit filed by the respondents no.5 and 6]. In this respect, the authority concerned of University Grants Commission had also issued a public notice under *Reference No.F.1-1/2018(Journal/CARE) dated 16th September, 2019* stating inter alia that “the old ‘UGC Approved List of Journals’ has been replaced with the new ‘UGC-CARE Reference List of Quality Journals’(UGC-CARE List) with effect from 14th June, 2019 research publications only from the journals indexed in

UGC-CARE List should be considered prospectively for any academic purpose”. As such, challenge to the appointment of respondent no.6 as Assistant Professor in the subject of education is not sustainable and, therefore, no interference is called for to exercise extraordinary jurisdiction of this Court under Article 226 of the Constitution of India and the reliefs claimed for as against the respondent no.6 is hereby rejected.

22. For the reasons stated and discussed here-in-above, I am inclined to allow this writ petition in respect of the challenge to the appointment of respondent no.5 and proceed to pass following orders:-

- i. The appointment of respondent no.5 is declared as illegal, arbitrary, discriminatory and *void ab initio* being made in contravention with the UGC Rules and Regulations, and accordingly the respondent-University is directed to recall and cancel the appointment order, appointing respondent no.5 as Assistant Professor in the subject of Education immediately on receipt of the copy of this order.
- ii. Respondents no.1, 2, 3 and 4 are directed to recast/revise the select list in respect to the subject of Education cancelling the selection/recommendation and subsequent appointment of respondent no.5 as Assistant Professor in Education subject.
- iii. The Tripura Public Service Commission is further directed to make recommendation as per recast/revise select list in terms of the observations made here-in-above.
- iv. The respondents no.3 and 4 shall act upon such recommendation of TPSC in accordance with law.
- v. The appointment of respondent no.6 is not interfered with.

Accordingly, the instant writ petition stands disposed in the
above terms.

JUDGE

Snigdha/Rohit

SAIKAT
KAR

Digitally signed
by SAIKAT KAR
Date: 2024.03.13
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