



Serial No.30
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 241 of 2023

Date of Order : 23.08.2024

Smti. Anowara Begum.

...Petitioner

-Versus-

1. The State of Meghalaya, represented by the Commissioner and Secretary to the Government of Meghalaya, Education Department, Shillong.
2. The Director of School Education & Literacy, Meghalaya, Shillong.
3. The District School Education Officer, North-Garo Hills, Resubelpara.
4. The School Managing Committee of Resubelpara Girls Higher Secondary School, Represented by its Secretary, P.O- Resubelpara, District-North Garo Hills, Meghalaya – 794108.

...Respondents

Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Chief Justice (Acting)

Appearance:

For the Petitioner/Applicant(s) : Mr. S.Islam, Adv.
 Ms. M.Rahman, Adv.

For the Respondent(s) : Dr. P.Agarwal, GA for R 1-3.
 Mr. A.A.Sangma, Adv. for R 4.

i) Whether approved for reporting in Yes/No



Law journals etc:

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| ii) | Whether approved for publication
in press:_ | Yes/No |
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JUDGMENT AND ORDER (ORAL)

1. The writ petitioner on being aggrieved with the non-approval of her upgradation to the post of Assistant Headmistress in Resubelpara Girls Higher Secondary School is before this Court praying for appropriate orders to approve the resolution submitted by the Managing Committee of Resubelpara Girls Higher Secondary School and consequently, for quashing of the impugned letters whereby the approval was not granted.

2. Mr. S.Islam, learned counsel for the petitioner has submitted that the petitioner is the senior-most Assistant Teacher of Resubelpara Girls Higher Secondary School, North Garo Hills and was appointed as far back as on 1st November, 1992. It is further submitted that the Managing Committee in its meeting held on 05-02-2023 promoted the petitioner to the post of Assistant Headmistress and that since then, she has been discharging her duties as such. However, he submits when the approval was sought from the respondent No. 2, by the impugned letters dated 25-05-2023 and 21-07-2023, the same was rejected. He contends that the rejection is unjustified, inasmuch as, the grounds as given in the impugned letters that the petitioner could not be considered as she does not possess the B.Ed



Degree is not applicable in her case. This he submits is because in the conditions of service and qualification necessary, the School being a Deficit School is governed by the amended Assam Aided and Higher Secondary School Employees Rules, 1965, wherein the qualification required is that a candidate shall hold at least five years' experience in teaching, apart from other conditions, but B.Ed Degree is not mandatory

3. He further asserts that the executive orders issued by the respondent No. 2, whereby it has been instructed that in Deficit Secondary Schools, a candidate without B.Ed Degree be not recommended is not binding, inasmuch as, this provision has not been inserted in the Rules. He therefore submits that the writ petitioner being duly qualified as per the prevalent Rules, is liable to be granted approval and appointed formally to the post of Assistant Headmistress.

4. Dr. P.Agarwal, learned GA on behalf of the State respondents has placed strong reliance on two letters, first, dated 25th January, 2007 on the subject of appointment as Assistant Teachers in Deficit Schools, wherein it is given that all vacancies in the Deficit Secondary Schools should be filled up by B.Ed Degree holders, and in the letter dated 19th July, 2023 which has also mandated that candidates without B.Ed Degree were not eligible for appointment to the post of Assistant Teachers/Assistant Headmaster, Headmaster in Deficit Secondary Schools. She therefore submits that in



view of the embargo created by these executive orders, notwithstanding the fact that the Rules do not speak of the same, the writ petitioner is not entitled to the prayers in the writ petition.

5. I have heard learned counsel for the parties and examined the materials placed on record. It is noted that the petitioner has been appointed as far back as in the year 1992 and has been serving in the said School continuously, and in 2023 was recommended to the post of Assistant Headmistress by the Managing Committee. The Rules as applicable, it is noticed, do not speak of any added qualification academically, apart from only requiring the teachers to have the qualifying years of service. This Court however cannot also ignore the fact also that since 2007, orders have been issued mandating the requirement of a B.Ed Degree to occupy such a post. It is also noted that it is not disputed that the Amended Assam Aided High and Higher Secondary Schools Employees Rules, 1965 have been applied to the Schools receiving maintenance grants or in short, aided Schools. Rule 5(2) thereof on the qualification of an Assistant Headmistress is quoted herein below:

“5 Academic and other qualifications. –
(ii) Assistant Headmasters / Assistant
Headmistresses. A candidate shall hold at least 5
years’ experience in teaching which may be
relaxed up to three years in exceptional cases of
outstanding academic career.”



6. As observed earlier, the State respondents have issued Circulars or letters on 15-01-2007 and 19-07-2023 mandating the requirement of B.Ed Degree. Though it has not been argued by the learned counsel for the State as to whether this direction necessarily have to be included in the Rules, or whether in their application, can be said to supplement the same, this Court at this juncture without further dwelling in the matter, in view of the discussions made hereinabove, directs the respondent No. 2 to take an appropriate decision in this regard keeping in mind the fact that the petitioner was appointed since 1992 and is serving in the post of Assistant Headmistress. The said decision should be rendered within a period of four weeks after a copy of this order is presented before the State respondents.
7. With the above direction, matter stands closed and disposed of.

Chief Justice (Acting)