

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.921 of 2015**

Sanjay Kumar Sharma, son of Shri Radhe Lal Sharma, aged about 34 years, working as Assistant Teacher (Panchayat), Govt. Primary School, Fhunda, Sankul Bari, Block Dhamdha, District Durg, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh, through Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh
2. Director Public Instructions, Chhattisgarh Raipur, District Raipur, Chhattisgarh
3. District Education Officer, Raigarh, District Raigarh, Chhattisgarh

---- Respondents

For Petitioner	:	Shri C.J.K.Rao, Advocate
For Respondents/State	:	Shri U.N.S.Deo, Government Advocate

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board**Per NAVIN SINHA, C.J.****21/7/2015**

1. In this writ application, the Petitioner assails the amendment in Chhattisgarh Non-Gazetted Class III Education Service (School Level Service) Recruitment and Promotion Rules, 2008 (henceforth called 'the Rules') in Column (6) of Serial No.1 of Schedule II by which 20% posts of Head Master shall be filled-up by promotion of Assistant Teachers working in the Department and 80% posts of Head Master shall be filled-up by direct recruitment through limited departmental examination from Assistant Teachers of the Department, Shiksha-Karmi/Assistant Teachers (Panchayat) or Teachers (Panchayat) having seven years' experience.

2. Learned Counsel for the Petitioner submits that the post of Assistant Teacher of School Education Department is a dying cadre. 20% posts of Head Master have already been kept reserved for them by promotion. 80% posts of Head Master is available for direct recruitment

from the remaining eligible categories. Referring to Clause 3 of the amendment to Rule 6(1)(c) of the Rules, he submits that direct recruitment through limited departmental examination has to be confined to Shiksha-Karmi, Assistant Teacher (Panchayat) and Teacher (Panchayat) only. This option is not available to Assistant Teachers of the Education Department who are to be considered only against the 20% quota. As otherwise, the opportunities for persons like the Petitioner, who are Assistant Teachers (Panchayat) and fulfill the eligibility for the limited departmental examination, shall get reduced.

3. Learned Counsel for the Respondents submits that the post of Assistant Teacher of School Education Department is a dying cadre. 20% posts of Head Master have been kept reserved for them. If a person does not come within the zone of consideration for promotion, nothing prevents him from sitting for the limited departmental examination also permissible under the amendment. The mere fact that the Petitioner may face more competition in the limited departmental examination is irrelevant and cannot be a ground to maintain the writ application. If an Assistant Teacher of School Education Department is otherwise eligible under Column (6) of Serial No.1 of Schedule II, Clause 3 of the amendment only provided for additional eligibility and cannot be interpreted as reducing eligibility of the candidates.

4. We have considered the submissions on behalf of the parties and are satisfied that the writ application calls for no interference.

5. According to Column (6) of Serial No.1 of Schedule II, originally Assistant Teachers of School Education Department alone were eligible for promotion to the post of Head Master. After the amendment made in the Rules, 20% posts of Head Master have been kept reserved for such persons considering that they are a dying cadre. If any one of them does not come within the zone of consideration, but otherwise meets the

conditions of eligibility to sit in the limited departmental examination, we see no reason to interfere because the area of competition for the Petitioner may increase. The right to consideration is not automatic under the 80% category, but is subject to passing of the limited departmental examination.

6. The writ application is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE