

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.25210 of 2012 (O&M)
Date of decision: 12.1.2015

Sanjit

..... Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Ajay Kumar Kansal, Advocate for the petitioner.

Mr. Jasmeet Singh Bedi, Addl. Advocate General, Haryana.

RAJESH BINDAL, J

The petitioner, who was an applicant for the post of Conductor in pursuance to advertisement No.3 of 2009 dated 28.2.2009 has approached this Court impugning the communication dated 20.11.2012 (Annexure P-10), whereby, his candidature was cancelled on the ground that he was not qualified for the post.

Learned counsel for the petitioner submitted that the Haryana Staff Selection Commission (for short "the Commission") issued advertisement No.3 of 2009 dated 28.2.2009 inviting applications for 2480 posts of Conductor. The last date for submission of applications was 27.3.2009. Essential qualification required was matriculation with Hindi or Sanskrit and a valid conductor's licence on cut off date. The petitioner being eligible having passed his secondary school examination from National Open School, New Delhi in the year 1997, applied for the post. The petitioner also had conductor's licence issued in his favour by the Licensing Authority, Rohtak on 10.6.2006, which was initially valid upto 15.6.2009, thereafter upto 15.6.2014. In the process of selection, written test was conducted, which the petitioner passed. The petitioner was also issued interview letter and was asked to appear before the Interview Committee on 27.4.2011 at Ambala. The result was declared on 1.2.2012, however, the petitioner was surprised not to find his roll number in the result sheet. To find out the reason, the petitioner filed an application under Right to Information Act, 2005 dated 22.6.2012. The same was replied to vide communication dated 2.7.2012 stating that the candidature of the petitioner

was rejected by the Commission, however, no ground was mentioned. On further enquiry, the petitioner came to know that his candidature was cancelled on the ground that the petitioner had passed his secondary school examination from National Open School, New Delhi, which has not been recognised by the Haryana School Education Board, Bhiwani (for short “the Board”) as equivalent to matriculation. Thereafter, sister of the petitioner filed application dated 28.7.2012 under Right to Information Act, 2005 to the Board seeking information as to whether secondary examination of National Open School is recognised by the Board or not. The same was replied to vide communication dated 21.8.2012 stating that secondary examination conducted by National Open School passed at least with five subjects is recognised as equivalent to secondary examination conducted by the Board. Learned counsel for the petitioner further submitted that the same was in terms of the communication from the Financial Commissioner & Secretary to Government of Haryana, Education Department, Chandigarh on the subject of recognition/equivalence of various degrees/diplomas/certificates etc. awarded by different institutions, wherein it was provided that all the degrees/diplomas/certificates/examinations recognised by various Universities and including the Board of School Examination, Haryana would stand recognised in the State of Haryana for admission and recruitment purposes. In the light of the aforesaid document, the contention raised by learned counsel for the petitioner was that the qualification of secondary examination passed by the petitioner from National Open School being equivalent to secondary examination conducted by the Board, the petitioner was fully eligible and rejection of his candidature was totally illegal.

It was further contended that for raising the aforesaid grievance, the petitioner earlier filed CWP No.18578 of 2012, which was disposed of on 19.9.2012 giving liberty to the petitioner to file representation to the Commission. Representation dated 24.9.2012 was filed thereafter, which has been rejected vide impugned communication dated 20.11.2012.

While referring to the aforesaid communication, learned counsel submitted that the ground to reject the candidature of the petitioner is totally mis-conceived. Even in terms of the aforesaid communication secondary level examination passed from National Open School is equivalent to matric

level examination of the Board subject to the condition that the candidate must have passed Hindi and English as compulsory subjects and three subjects out of Mathematics, Social Studies, Science and one elective subject. This makes out that the secondary level examination to be passed from National Open School is to be with five subjects, i.e. two subjects being compulsory and three being optional. As per the marks sheet (Annexure P-2) annexed with the petition, the petitioner had passed his secondary examination from National Open School with Hindi, English, Mathematics, Social Science and Economics, hence, he was fully eligible.

On the other hand, learned counsel for the respondents submitted that as per the clarification issued by Director, Secondary Education, Haryana dated 25.1.2012, secondary level examination passed from National Open School, New Delhi is equivalent to matriculation examination conducted by the Board subject to the condition that the candidate must have passed Hindi and English as compulsory subjects and three subjects out of Mathematics, Social Studies, Science and one elective subject. This will make six subjects in total. The petitioner having passed his secondary level examination from National Open School in five subjects, hence, the same cannot be treated to be equivalent to the matric level examination of the Board. He further submitted that selections have already been finalised and appointments have been made, hence, it would be too late for the petitioner to seek appointment. He further submitted that now there is no Chairman or member in the Commission, hence, it will not be possible to interview the petitioner at this stage.

Heard learned counsel for the parties and perused the paper book.

Advertisement No.3 of 2009 for recruitment of 2480 posts of Conductor was published on 28.2.2009. Essential qualifications required were matriculation with Hindi or Sanskrit and a valid conductor's licence on cut off date. The petitioner claiming himself to be eligible being matriculate and having a conductor's licence, applied for the same. He claimed that he had passed the written examination and was called for the interview. The allegations made to that effect in para 3 of the petition have not been specifically denied or clarified, as the only reply to that effect is "admitted being matter of record". Meaning thereby, the petitioner was short-listed and reached upto the stage of interview.

A perusal of the communication dated 20.11.2012 (Annexure P-10), which has been impugned in the present petition shows that the rejection of candidature of the petitioner is on the ground that he was required to pass secondary level examination from National Open School with six subjects including Hindi, English being compulsory subjects. Only then, the same would be considered equivalent to matric level examination conducted by the Board. For the purpose reliance was placed upon the clarification issued by the Director, Secondary Education, Haryana dated 25.1.2012 (Annexure R-2/1).

As per the information available from the website of the NIOS, the NIOS formerly known as National Open School (NOS) was established in November, 1989 as an autonomous organisation in pursuance of National Policy on Education 1986 by the Ministry of Human Resource Development, Government of India. It is the largest Open School in the world. NIOS is providing a number of Vocational, Life Enrichment and community oriented courses besides General and Academic Courses through its Open Basic Education Programmes. Government of India through a gazette notification vested NIOS with the authority to examine and certify learners registered with it upto pre degree level courses whether Academic, Technical or Vocational. Association of Indian Universities, vide letter No.EV/11(354)91/25 July, 1991 issued Equivalence of Senior Secondary Certificate Examination of NIOS.

Prior to this it started as a project on “Open Schooling” under the Central Board of Secondary Education in 1979. It was re-christened as the National Institute of Open Schooling in July 2002. It has regional centres in the country at twenty places.

Cumulative enrolment of students in the NIOS is mentioned as 2.71 million, out of which 46% is of Secondary examination, 49% is of Senior Secondary examination and 5% is of Vocational examination. In the year 2013-2014, total 3,55,880 students got certification from the NIOS in the following examinations:-

<i>Year</i>	<i>Secondary (Class X)</i>	<i>Sr. Secondary (Class XII)</i>	<i>Vocational</i>	<i>OBE</i>
2013-2014	164192	160309	16090	15289

The aforesaid facts available from the website of the NIOS clearly establish that this is an autonomous organisation set up by the Ministry of

Human Resources Development, Government of India. If any certificate, which is stated to be equivalent to any qualification imparted by the State is not treated as equivalent by the State authority, the same would mean that they are challenging the authority of the Central Government and would defeat the very purpose for which the system has been put in place where lacs of students have already passed out and are still studying.

The petitioner passed secondary school examination conducted in May 1997 by National Open School with Hindi, English, Economics, Social Science and Mathematics.

As per the communication from Financial Commissioner & Secretary to Government Haryana, Education Department, Chandigarh dated 2.8.1999, addressed to various authorities in the State on the subject "Recognition/equivalence of various Degrees/Diplomas/Certificates etc. awarded by different Institutions" para 1 thereof, which is relevant and provides that all degrees/diplomas/certificates/examinations recognised by various universities and other boards etc. would stand recognised in the State of Haryana for admission and recruitment purposes. The relevant para is extracted below:-

"In CWP No.16320 of 1996 Ram Bhagat etc. versus State of Haryana and others the Hon'ble High Court while deciding the case of 16.5.1999 had given directions to the Govt. of Haryana to appoint a committee headed by Secretary to the Govt. of Haryana, Education Department to go into the issue of equivalence and recognition of the examinations/degrees/diplomas/certificates and similar other qualifications awarded by the institutions other than universities established by law or the deemed universities. The Hon'ble Bench had further directed to make a detailed evaluation of various examinations/degrees/diplomas etc. course and syllabi to take a policy decision of the issue on recognition and equivalence. Accordingly a Committee was constituted which submitted its report. Later the Hon'ble Bench while hearing on CWP No.17850 of 1998 Ram Dhan Versus State of Haryana and others observed on Dec.14, 1998 that the Committee should go into the larger issue and further desired to

analyze the question of recognition in a more national way. Consequently more Educations/Administrators of eminence were included as members of the Committee. The Committee in its last meeting on 2.4.99 gave its decision which was submitted before the Hon'ble High Court on 6.4.99 and the same was accepted.

It is now decided:-

- i) That the Degrees/Diplomas/Certificates/Examinations recognized by the Kurukshetra University, Kurukshetra, Maharishi Dayanand University, Rohtak, Guru Jambheshwar University, Hisar, Haryana Agricultural University, Hisar NDRI, Karnal, Board of School Education, Haryana, Bhiwani, State Board of Technical Education Haryana would stand recognized in the State of Haryana for admission and recruitment purposes.”

A query made to the Board by the sister of the petitioner under Right to Information Act, 2005 and reply thereto by the Board is extracted below:-

Query	Reply
“Whether the Secondary examination of National Open School, Delhi is recognised by Haryana School Education Board Bhiwani or not?”	Secondary examination conducted by National Institution of Open School, Noida, New Delhi (Passed with at least five Subject) is recognised as equivalent to secondary examination conducted by this board.”

The instructions issued by the State Government, as referred to above clearly establish that all the qualifications recognised by the Board would stand recognised for the purpose of recruitment. In terms of the clarification by the Board, the secondary examination conducted by the National Open School passed with at least with five subjects is recognised as equivalent to secondary examination conducted by the Board. The aforesaid document clearly belies the stand taken by the respondents that the petitioner is not eligible being not matriculate. In support of the plea that secondary examination had to be with six subjects, reference has been made

to clarification dated 25.1.2012 (Annexure R-2/1) from the Director, Secondary Education, Haryana to the Commission, the same reads as under:-

“It is intimated that the Secondary Level Examination passed from National Open School, New Delhi is equivalent to Matric Level Examination of Board of School Education, Haryana, Bhiwani subject to the condition that candidate must have passed Hindi and English as compulsory subjects and has passed three subjects out of Mathematics, Social Studies, Science and one elective subject in Secondary Level Examination.”

Firstly, the aforesaid clarification is not tenable in the light of the instructions issued by the Financial Commissioner and Secretary to Government, Haryana Education Department, Chandigarh on 2.8.1999 (Annexure P-8) and the information as supplied by the Board in response to the enquiry under the Right to Information Act, 2005 (Annexure P-7) as have already been referred to above. Further even the contents of the aforesaid document were misread by the authorities. A plain reading thereof provides that secondary level examination passed from National Open School shall be equivalent to matric level examination of Board subject to the condition that the candidate must have passed Hindi and English as compulsory subjects and passed three subjects out of Mathematics, Social Studies, Science and one elective subject. Reading thereof does not lead to the conclusion that this will make six subjects in total, as besides Hindi and English being compulsory subjects, three other subjects out of Mathematics, Social Studies, Science and one elective subject are to be passed. The words “three subjects out of Mathematics, Social Studies, Science and one elective subject” clearly show that this is a group of subjects out of which three have to be passed. If the first part thereof is to be read independently, second part of that would make it an absurd reading as it would mean passing of three subjects out of three, namely, Mathematics, Social Studies and Science. The word “and” is missing between Social Studies, Science. The word “and” has been written after Science. Meaning thereby that this part of the clarification requiring passing of three subjects has to be read together requiring passing of three

subjects out of the combination, besides Hindi and English being compulsory.

For the reasons mentioned above, the impugned communication dated 20.11.2012 (Annexure P-10) is quashed. The petitioner is held eligible for the post of Conductor having requisite qualifications. The factum of his passing the written test has not been disputed. He was not interviewed. At present there is no Chairman or member in the Commission. As the process of selection is already over, hence, to grant effective relief to the petitioner, it is directed that the Director General, State Transport shall constitute a Committee (Single or Multi Members) for interviewing the petitioner by following the process and criteria fixed for selection of the candidates by the Commission. In case, the petitioner secures marks more than the last selected candidate, he shall be offered appointment. In case, the petitioner is selected and appointed, he shall be entitled to all the benefits from the date of joining of service. Needful be done within a period of three months.

The petition stands disposed of.

(RAJESH BINDAL)
JUDGE

12.1.2015

sharmila

(Refer to Reporter)