

Date of Decision : December 17, 2015

February 2011, the petitioner was interviewed, but on the declaration of the results, he did not find his name in the list of selected candidates. On application filed by the petitioner under the Right to Information Act, 2005 (hereinafter referred to as – the Act), through the impugned order dated 17.02.2012, the petitioner was informed that his candidature had been rejected. As no reasons were forthcoming, the petitioner again applied under the Act, which were denied at the initial stage, but at the appellate stage, he was informed that since he has passed his Matric from National Open School, New Delhi, his candidature had been rejected.

Today, at the time of hearing, learned counsel appearing on behalf of the State has stated that the Haryana School Education Board, Bhiwani has clarified that the petitioner's qualification, of having passed his matriculation examination from National Open School, New Delhi, stands recognized and accordingly, he would be considered eligible for appointment as a Driver (HTV).

Even otherwise, the issue raised in the present petition is no longer *res integra* as the same stands decided in favour of a candidate, who is identically situated as the petitioner in **C. W. P. No. 25210 of 2012 – Sanjit vs. State of Haryana and another**, decided on **12.01.2015**, wherein it has been held that a candidate, who has passed Matric from National Open School, New Delhi, like the petitioner, would be considered eligible for consideration of his candidature for the post of Conductor, by holding as under :-

“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 :-

<i>Query</i>	<i>Reply</i>
<i>“Whether the Secondary examination of National Open School, Delhi is recognised by Haryana School Education Board Bhiwani or not?”</i>	<i>“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.”</i>

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.”

In view of the aforesaid statement made by learned counsel appearing on behalf of the State, as also the authoritative pronouncement in Sanjit's case (*supra*), the impugned order dated 17.02.2012 (Annexure P-4) is quashed. The petitioner is held eligible for consideration of his candidature for appointment to the post of Driver (HTV). Consequently, his result be declared, on the declaration of which, if it is found that he has secured more marks than the last person appointed in the category to which he belongs, he shall be offered appointment, with all consequential benefits, except arrears.

No costs.

(DEEPAK SIBAL)
JUDGE

December 17, 2015