

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 9461 of 2012 (O&M)
Judgement reserved on 20.9.2016.
Date of Decision: 18.10.2016.

Sumitra Devi

--Petitioner

Versus

State of Haryana and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Ved Parkash, Advocate for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

Mr. S.K. Verma, Advocate for respondent no.4.

TEJINDER SINGH DHINDSA.J

The petitioner is aggrieved of the action of the respondent- Women and Child Development Department, State of Haryana in having rejected her candidature for the post of Aanganwari Worker. Petitioner also assails the selection and appointment of private respondent no.4 to the post in question.

Petitioner is stated to have passed the “Prathma Priksha” from Hindi Sahitya Sammelan, Allahabad. The entire case set up on behalf of the petitioner is that the qualification possessed by the petitioner is equivalent to that of matriculation which was the essential qualification prescribed for the post of Aanganwari Worker and inspite of being eligible to be considered for appointment to the post, the respondent authorities without any justifiable basis have rejected her candidature. It has also been contended that 11 candidates had been considered for the post and inspite of the petitioner having secured 61% marks in the Prathma Priksha, she has been ignored, whereas respondent no.4, who had a lower percentage in the

Matriculation Examination, has been selected and appointed. In support of her claim counsel appearing for the petitioner has relied upon two Division Bench judgements of this Court i.e. ***CWP No.16002 of 2007 (Meena Devi Vs. State of Haryana and others decided on 27.2.2008)*** and ***CWP No.3236 of 2014 (Union of India and others Vs. Sukhbir Singh and others decided on 5.11.2014)***.

Counsel for the parties have been heard at length.

The issue with regard to validity of educational qualifications acquired from the Hindi Sahitya Sammelan, Allahabad is no longer *res integra*. A Division Bench of this Court in ***Jai Parkash and others Vs. State of Haryana and others, 2009(1) S.C.T., 721*** had considered such issue in detail against the backdrop of a candidate seeking appointment to the post of Hindi Teacher which was in pursuance to an advertisement issued by the Haryana Staff Selection Commission. It was held as follows:-

*“4. After hearing learned counsel for the petitioners at a considerable length and perusing the paper book with their able assistance, we are of the considered view that there is no merit in these petitions and the same are liable to be dismissed. The controversy raised in these petitions is not res integra. A Division Bench of this Court in the case of **Ram Bhagat Sharma v. State of Haryana, 1997(4) RSJ 134** had the opportunity to determine the issue sought to be raised in these petitions. The Division Bench before concluding that the certificates and degrees issued by ‘the Hindi Sahitya Sammelan, Paryag, Allahabad’ are bogus, constituted a Committee to make a thorough investigation in the working of the Examination Centres established by the Hindi Sahitya Sammelan, Allahabad and/or ‘the Hindi Sahitya Sammelan, Paryag, Allahabad’ and similar other institutions. The Committee visited Allahabad and made a detailed inquiry of*

the working of aforementioned institutions. The Committee found that there were numerous examination centres spread all over the streets of Haryana who attract the children to get Shiksha Visharad or other degrees of Hindi Sahitya Sammelan, Allahabad and/or Hindi Sahitya Sammelan Prayag, Allahabad. Out of these, Committee visited ten centres in a short span of time situated at Hissar, Bhiwani, Chiria, Charkhi Dadri, Ambala Cantt. and Shahbad Markanda. The centres were found to be housed in single room or in the residences. They were found charging a lump-sum amount of Rs.1,500/- to Rs. 6,000/- depending upon the economic status and the requirements of the candidates. The centres In-charges were not well qualified for coaching of Shiksha Visharad students. No High School was attached to any of the centres for the class-room teaching practice of the so-called examinees. They used to receive question papers, date-sheet and answer-sheets from Hindi Sahitya Sammelan, Prayag/Allahabad. Thereafter, they would run their centres independently and have been giving guarantee to the students to get through the examination by securing good marks. In the statement made before the Committee they had stated that cow-herds would come to them and they would give them the certificates procured. The Division Bench after noticing the afore-mentioned opinion of the Committee accepted the conclusion expressed by it which reads thus:-

“ Finally the Committee is of the opinion that Sahitya Sammelan, Prayag/Allahabad are doing disservice to the cause of education, especially Hindi, by issuing such certificates through a network of agents throughout the country”.

5. The Division Bench also expressed the opinion that Hindi Sahitya Sammelan, Allahabad and/or Hindi Sahitya Sammelan Prayag, Allahabad have neither been established under an Act of Parliament or of the State Legislature nor have they been recognised by the Kurukshetra University or

*Maharishi Dayanand University. The so-called examination centres being run in the State of Haryana appear to be bogus who charge a sum of Rs. 1,500/- to Rs. 6,000/-. **The Division Bench after noticing various other facts recorded its findings that the examination conducted at these centres are totally false and degrees/diplomas/certificates awarded by Hindi Sahitya Sammelan, Allahabad and/or Hindi Sahitya Sammelan Prayag, Allahabad on the basis of such examination have to be treated as bogus. It was further held that no candidate could claim eligibility for the purpose of appointment to a public post on the basis of such degree.***

The dictum laid down in ***Jai Parkash's*** case (supra) would squarely apply to the facts of the present case. No infirmity, as such, can be found in the action of the respondent department in having rejected the candidature of the petitioner on account of possessing a qualification acquired from the Hindi Sahitya Sammelan, Allahabad.

The judgements relied upon on behalf of the petitioner would have no applicability. In the case of ***Meena Devi*** (supra), the Division Bench had not gone into the question as regards validity and recognition of any qualification that may have been acquired from the Hindi Sahitya Sammelan, Allahabad. The judgement was rendered on the basis of stand taken on behalf of the respondents in the light of a notification issued by the Govt. of India, Ministry of Human Resource & Development (Department of Secondary Education), New Delhi dated 26.7.2001. In the case of ***Union of India Vs. Sukhbir Singh*** (supra) the question was with regard to the post of Gramin Dak Sewak Male Carrier under the Union of India and in that case also it was a subsequent notification of the Govt. of India, Ministry of Human Resource & Development (Department of Higher Education) dated 21.9.2006 that had been taken note of. Suffice it to notice that both the

notifications referred to herein above issued by the Govt. of India dated 26.7.2001 and 21.11.2006 were in relation to employment under the Central Govt. In the considered view of this Court, it is the Division Bench judgement of this Court in *Jai Parkash's* case (supra) that would hold the field as it is in this judgement that the question of validity of degrees, diplomas and certificates awarded by the Hindi Sahitya Sammelan, Allahabad, has been examined.

There is yet another aspect that has weighed with this Court to deny relief to the petitioner. It is by now well settled that it is for the employer to prescribe qualifications for appointment to a particular post. Whenever qualifications are prescribed for a post, the incumbent for such post would not be vested with an inherent right to seek the benefit of equivalent or matching qualifications. In the facts of the present case petitioner had applied for the post of Aanganwari Worker in pursuance to the advertisement at Annexure P-2, whereby the essential qualification prescribed was matriculation. The respondent department in its wisdom provided the essential qualification specifically excluding the expressing **“or any other qualification equivalent to the prescribed qualification”**. Absence of such a clause would clearly indicate that the respondent department did not desire to appoint people possessing equivalent qualification. A clause of equivalence as treated for academic purpose may not essentially be true or universally applicable for employment purposes as well. In the field of employment a specific stipulation should be provided in the advertisement as regards equivalent qualification to be also considered. Under such circumstances, the petitioner cannot compel the respondent department to treat her qualification of “Prathma Priksha” to be

treated as equivalent with that of matriculation. In taking such view a reference may be made to the Division Bench judgement of this Court in ***Ajay Kumar Vs. State of Haryana and others, 2004(1) S.C.T, 888.***

For the reasons recorded above, no interference in the matter is called for.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

18.10.2016
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Whether speaking/reasoned: Yes

Whether Reportable: Yes