

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Writ Petition Nos.40590 and 40936 of 2017

COMMON ORDER: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

Heard Sri Pratap Narayan Sanghi and Sri Y.Nagaiah, Learned Counsel for the petitioners, and the Learned Additional Advocate General for the State of Telangana and, with their consent, both the Writ Petitions are disposed of at the stage of admission.

The petitioners herein are all Hindi Pandits qualified in Hindi Vidwan Examination conducted by the Hindi Prachara Sabha, Hyderabad or the Hindi Sahitya Sammelan, Allahabad or the Dakshin Bharat Hindi Prachar Sabha, Madras. They claim that the Hindi Vidwan course, undergone by them, is equivalent to a Bachelor's Degree in Hindi which is among the qualifications prescribed for being considered for appointment to the post of School Assistant (Hindi) in Government and local body schools for which a recruitment process is being undertaken by the State Government, and a Teacher Recruitment Test is being held in February, 2018.

In exercise of the powers conferred under Article 309 of the Constitution of India read with Section 169(3) and (4), Section 195 (3) and (4), and Section 243 of the Telangana Panchayat Raj Act, 1994, Sections 78 and 99 of the Telangana Education Act, 1982 read with Section 23(1) of the Right of Children to Free and Compulsory Education Act, 2009 (for short "the Act") and the National Council for Teacher Education (Determination of Minimum Qualifications for Persons to be Recruited as Education Teachers and Physical Education Teachers in Pre-Primary, Primary, Upper Primary, Secondary, Senior Secondary or Intermediate Schools or Colleges) Regulations, 2014 dated 12.11.2014 (for short "the NCTE 2014 Regulations"), the Government of

Telangana made the rules called the Telangana State Direct Recruitment for the posts of Teachers Rules, 2017 (for short “the Rules”) notified in G.O.Ms. No.25 dated 10.10.2017.

Rule 4 of the Rules prescribes the qualifications post-wise for different posts including School Assistant (Hindi). The qualification prescribed under Rule 4(G), for the post of School Assistant (Hindi), is that a candidate must possess Graduation with Hindi as one of the Optional/Graduation in Literature in Hindi/Bachelor’s Degree in Oriental Language (BOL) in Hindi/Post Graduation Degree in Hindi from a University recognised by UGC with 50% (In case of SC/ST/BC/Differently abled candidates, the minimum marks shall be 45%) and Pass in Bachelor of Education (B.Ed.) course with Hindi as a Methodology subject or Language Pandit Training in Hindi or Hindi Shikshan Parangat from any institution recognized by the NCTE.

Likewise, the qualification prescribed for Language Pandit (Hindi) is that the candidate must possess Graduation with Hindi as one of the Optional/Graduation in Literature in Hindi/Bachelor’s Degree in Oriental Language (BOL) in Hindi/Post Graduation Degree in Hindi from a University recognised by UGC with 50% (in case of SC/ ST/ BC/ Differently abled candidates, the minimum marks shall be 45%) and Pass in Bachelor of Education (B.Ed.) course with Hindi as a Methodology subject or Language Pandit Training in Hindi or Hindi Shikshan Parangat from any institution recognised by the NCTE.

The fact that the petitioners possess the B.Ed. Degree is not in dispute. The only question which necessitates examination is whether their possessing the qualification, which they claim is equivalent to Graduation in Hindi, would suffice for them to be permitted to appear for the Teacher Recruitment Test being conducted by the Telangana Public Service Commission.

Section 23 of the Act prescribes the qualification for appointment, and the terms and conditions of service of teachers. Section 23(1) of the Act stipulates that any person possessing such minimum qualifications, as laid down by an academic authority authorised by the Central Government by notification, shall be eligible for appointment as a teacher.

The requirement of Section 23(1) of the Act is that possession of the minimum qualification, prescribed by an academic authority authorised by the Central Government by notification, would suffice to be eligible for being considered for appointment as a teacher. The Central Government notified the NCTE 2014 Regulations in the Gazette of India, Extraordinary dated 12.11.2014. Regulation (4) thereof relates to the qualifications for recruitment, and clause (a) of Regulation (4) stipulates the qualifications for recruitment of teachers in any recognised school imparting pre-primary, primary, upper-primary, Secondary, Senior Secondary or Intermediate Schools or Colleges imparting senior secondary education shall be as given in the First and Second Schedule(s) annexed to the Regulations.

The First Schedule stipulates the level and the minimum academic and professional qualifications thereto. Serial No.4 is the level of Secondary/High School (For Classes IX-X). Clause (b) in the Column of Minimum Academic and Professional Qualifications stipulates the minimum qualification as Graduate/Post Graduate from a recognised University with at least 45% marks in either Graduation or Post Graduation (or its equivalent) and Bachelor of Education (B.Ed.) from National Council for Teacher Education recognised institution.

While the NCTE 2014 Regulations prescribe Graduation/Post Graduation with 45% marks as the qualification, it further stipulates that “or its equivalent” shall also be the minimum academic and

professional qualification. While framing the Rules, among others, in terms of the 2014 NCTE Regulations, the Rules framed by the Government of Telangana in G.O.Ms.No.25 dated 10.10.2017 has omitted the words “or its equivalent”.

While Sri Pratap Narayan Sanghi, learned counsel for the petitioners in W.P.No.40590 of 2017, would contend that the petitioners’ qualification is equivalent to a Graduation in Hindi, it would be wholly inappropriate for us, in proceedings under Article 226 of the Constitution of India, to determine its equivalence. We are, however, in agreement with the learned counsel that, in case the qualification which the petitioners possess is equivalent to a Graduation in Hindi, then, notwithstanding the Rules notified in G.O.Ms.No.25 dated 10.10.2017, the Government of Telangana would be obligated, in terms of Section 23(1) of the Act, to consider the petitioners for appointment, and permit them to appear in the written examination, since possession of the minimum qualification, stipulated by the NCTE, would suffice for the candidate to appear in the examination.

Sri Pratap Narayan Sanghi, learned counsel for the petitioners in W.P.No.40590 of 2017, would also plead discrimination contending that, while the Rules in G.O.Ms.No.25 dated 10.10.2017 prescribe equivalence for certain courses, it does not so provide with respect to other courses. As we are inclined to grant relief to the petitioners in view of Section 23(1) of the Act, we see no reason to examine this plea.

Suffice it, in such circumstances, to direct the respondents to examine whether or not the qualification secured by the petitioners is equivalent to a Bachelor’s Degree in Hindi. The petitioners shall be informed in writing of the decision taken by the respondents, regarding equivalence of their educational qualification vis-à-vis the Bachelor’s Degree in Hindi, within one week from today and, in case their

educational qualification is held to be equivalent to a Bachelor's Degree in Hindi, then their applications, for appearing in the Teacher Recruitment Test to be held in February, 2018, shall be received and processed in accordance with law.

The Writ Petitions are disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(GUDISEVA SHYAM PRASAD, J)

18th December, 2017

Note: Issue C.C by 20.12.2017.

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Date: 18.12.2017