

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN  
AND  
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

**WRIT PETITION No.42165 of 2017**

**ORDER :** (per Hon'ble the Acting Chief Justice)

The relief sought for in this writ petition is to declare Rule 4(IV) and (1) of the Rules notified in G.O.Ms.No.25 dated 10.10.2017, to the extent of enhancing the minimum qualifying percentage of marks as 50% in Intermediate for all categories of candidates, without relaxing the maximum marks for SC/ST/BC candidates to below 45%, as arbitrary and illegal.

The petitioners seek to appear for the Teachers Training Test to be held for selecting candidates for appointment as Physical Education Teachers (PET) in different schools run by the Government, and by the Local Bodies. The Notification issued by the Telangana State Public Service Commission is in terms of the Rules notified in G.O.Ms.No.25 dated 10.10.2017. The qualification prescribed for being considered for appointment as a Physical Education Teacher is that the candidate must possess Intermediate (or its equivalent) recognized by the Board of Intermediate Education, Telangana, with a minimum of 50% marks and either a Certificate/Under-Graduate Diploma in Physical Education/Diploma in Physical Education from an institution

recognized by the NCTE, or should have participated in games at the School/College/or District level.

While the prescription of 50% marks, in the Rules notified in G.O.Ms.No.25 dated 10.10.2017, is no doubt higher than what is prescribed in the National Council for Teacher Education (Determination of Minimum Qualifications for Persons to be recruited as Education Teachers and Physical Education Teachers and Physical Education Teachers in Pre-Primary, Primary, Upper Primary, Secondary, Senior Secondary or Intermediate Schools or Colleges) Regulations, 2014 (for brevity “the 2014 Regulations”), even under the 2014 Regulations, a candidate, who possesses Intermediate qualification with 45% marks, must possess a Certificate/Diploma in Physical Education for a duration of not less than 2 years from any National Council for Teacher Education recognized institution. It is not in dispute that the petitioners do not possess the qualification of either having participated in Sports/Games in School/College or District level or a Diploma or Certificate/Diploma in Physical Education Training for a period of two years.

Sri P. Srihari Nath, learned counsel for the petitioners would, however, plead discrimination, and contend that this stipulation in the Rules is arbitrary and falls foul of Article 14 of the Constitution of India. Learned counsel would submit that when the petitioners completed their Intermediate

course, this prescription of 50% marks was not in existence; consequently, such Rules cannot be made applicable to students, who have already passed their Intermediate Examination; and they must be made applicable only to those who are yet to complete their Intermediate Education, and not to those who have already passed Intermediate. According to the learned counsel, the Rules also suffer from discrimination, in as much as the prescription of 50% marks in these Rules is at variance with the 45% marks in Intermediate prescribed for Physical Education Teachers in Social Welfare/Tribal Welfare Residential Schools.

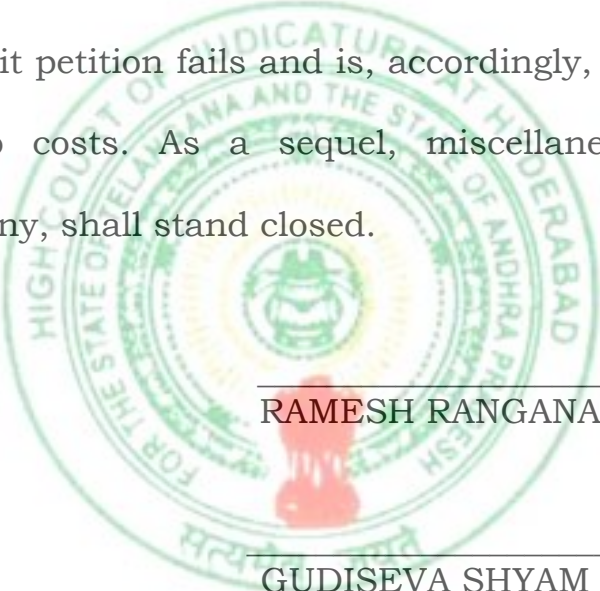
We must express our inability to agree with either of these two contentions. *Firstly*, because the Rules, notified in G.O.Ms.No.25 dated 10.10.2017, called “The Telangana Direct Recruitment for the posts of Teachers Rules, 2017” (hereinafter called “the 2017 Rules”) were made in the exercise of the powers conferred by Article 309(1) of the Constitution of India read with the relevant provisions of A.P. Panchayat Raj Act, 1994, the Telangana Education Act, 1982, and the 2014 Regulations of the NCTE; and have been made applicable only to all the categories of Teacher posts in Government Schools, Zilla Praja Parishad Schools and Mandal Praja Parishad Schools. These Rules have no application to Social Welfare/Tribal Welfare Residential Schools. Since both these categories of schools form different

and distinct classes, and the Rules have been made only in respect of the former and not the latter, the petitioners cannot claim parity with those who seek employment, as Physical Education Teachers, in Social Welfare/Tribal Welfare Residential Schools.

The other contention, urged by Sri P. Srihari Nath, learned counsel for petitioners, is that these Rules have, in effect, been applied retrospectively to applicants, who have already passed their Intermediate Examination. This contention does not also merit acceptance. The Rules, notified in G.O.Ms.No.25 dated 10.10.2017, have been made applicable only for recruitment of teachers for which an examination is scheduled to be held in February, 2018 i.e., more than three months after the date when the Rules came into force. Accepting the submission of Sri P. Srihari Nath, learned counsel for the petitioners, would mean that these Rules would have to be made applicable not from the date they were brought into force i.e., 10.10.2017, but from the year 2020 onwards, since it is only by then can these Rules be made applicable to students who have not passed their Intermediate with 50% marks by the date these Rules came into force on 10.10.2017. In effect, the submission of the learned counsel is that, these Rules should be given effect to 3 years later, and not from 10.10.2017, on which date these Rules were notified in the Gazette. Application of these Rules

to persons, who have already passed their Intermediate Examination, would not amount to giving such rules retrospective effect. While it is no doubt true that Rules must, ordinarily, be applied prospectively i.e., after the date they come into force, the respondents have only applied these Rules prospectively to recruitment of teachers, in the examination scheduled to be held in February, 2018. Neither of the contentions, urged by the learned counsel for the petitioners, merit acceptance.

The writ petition fails and is, accordingly, dismissed. No order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.



RAMESH RANGANATHAN, ACJ

GUDISEVA SHYAM PRASAD, J

20.12.2017.

NOTE: Issue C.C. in three days.  
(B/O)  
Msr

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