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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 805 of 2018**

{Arising out of order dated 13.09.2018 passed by learned Single Judge in Writ Petition (S) No. 6011 of 2007}

- Rajesh Kumar Nishad, S/o Shri Paras Nath Nishad, aged about 41 years, R/o Quarter No.27, Labour Colony, Rajnandgaon, District Rajnandgaon, Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh, Through the Secretary (Law), Mantralaya, Mahanadi Bhawan, Capital Complex, Naya Raipur, District Raipur (Chhattisgarh)
2. The Registrar General, Hon'ble High Court of Chhattisgarh, Bilaspur, District Bilaspur (Chhattisgarh)
3. District Judge, Rajnandgaon, District Rajnandgaon, Chhattisgarh.
4. The Secretary (Education), Mantralaya, Mahanadi Bhawan, Capital Complex, Naya Raipur, District Raipur (Chhattisgarh)

---- Respondents

For Appellant	:	Shri Ashish Surana, Advocate.
For Respondent No.1/State	:	Shri Prasun Bhaduri, Government Advocate.
For Respondent Nos.2 and 3	:	Shri Manoj Paranjpe, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Justice Parth Prateem Sahu****Judgment on Board****Per Ajay Kumar Tripathi, Chief Justice****12.12.2018**

1. Heard counsel for the Appellant, learned Government Advocate for the State and counsel for Respondent Nos. 2 and 3.
2. Since the writ application of the Appellant was dismissed by the learned Single Judge vide his order dated 13.09.2018 refusing to give any direction to consider

his case for promotion from Class IV post to Class III post, the present appeal has been filed.

3. The Appellant is working as a peon in the District Court, Rajnandgaon and was appointed sometime on 17.09.1997. There are avenues of promotion for Class IV employee to Class III based on the principle of seniority-cum-fitness. The minimum qualification required for promotion to a Class III cadre post is said to be 12th or Higher Secondary passed from a recognized Board.
4. The Appellant claims that he had an equivalent degree of class 12th or Higher Secondary since he had passed the Madhyama Dwitiya Khand from Hindi Sahitya Sammelan, Allahabad. This made him eligible in terms of the qualification.
5. The learned Single Judge, examining the validity of such claim of educational kind relied on a decision rendered by the Hon'ble Supreme Court in the case of **Rajasthan Pradesh Vaidya Samiti Vs. Union of India & Others** reported in **(2010) 12 SCC 609**. The Hon'ble Apex Court concluded the status of the Hindi Sahitya Sammelan, Allahabad to be a fake institution which does not impart any education. Such view has also been affirmed by different Division Benches of the Allahabad High Court.
6. The Apex Court had this to say on the status of Hindi Sahitya Sammelan in para 51 of Rajasthan Pradesh Vaidya Samiti (supra):-

“51. At the cost of repetition, it may be pertinent to mention here that in view of the above, we have reached to the following inescapable conclusions:

(I) Hindi Sahitya Sammelan is neither university/deemed university nor an educational board.

(II) It is a society registered under the Societies Registration Act, 1860.

(III) It is not an educational institution imparting

education in any subject inasmuch as ayurveda or any other branch of medical field.

(IV) No school/college imparting education in any subject is affiliated to it. Nor Hindi Sahitya Sammelan is affiliated to any university/board.

(V) Hindi Sahitya Sammelan has got no recognition from the statutory authority after 1967. No attempt had even been made by the Society to get recognition as required under Section 14 of the 1970 Act and further did not seek modification of Entry 105 in Schedule II to the 1970 Act.

(VI) Hindi Sahitya Sammelan only conducts examination without verifying as to whether the candidate has some elementary/basic education or has attended classes in ayurveda in any recognised college.

(VII) After commencement of the 1970 Act, a person not possessing the qualification prescribed in Schedules II, III and IV to the 1970 Act is not entitled to practise.

(VIII) Mere inclusion of the name of a person in the State Register maintained under the State Act is not enough for making him eligible to practise.

(IX) The right to practise under Article 19(1) (g) of the Constitution is not absolute and thus subject to reasonable restrictions as provided under Article 19(6) of the Constitution.

(X) Restriction on practise without possessing the requisite qualifications prescribed in Schedules II, III and IV to the 1970 Act is not violative of Article 14 or ultra vires to any of the provisions of the State Act."

7. Another aspect which has been taken note of is that there are certain adverse entries also which did not make him eligible for consideration. This may not be much of significance because if the Appellant does not have the requisite educational qualification in the very first place, he lacks eligibility for consideration.
8. He also tried to make out a case of discrimination by pleading that similarly situated persons have been given advantage to which the learned Single Judge had rightly taken a view that one wrong does not make out a case for committing yet another one. There cannot be any violation of Article 14 and 16

of the Constitution of India if a decision *per se* is found to be otherwise invalid or erroneous.

9. We do not find that the view so taken by the learned Single Judge in dismissing the writ application refusing to give benefit to the Appellant was an erroneous view which is required to be interfered with in this appeal.
10. Appeal has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge