

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 7976 of 2018

Ramnaresh Tiwari S/o Late Vikarama Ram Tiwari Aged About 72 Years
R/o Village Kaushalpur Post Ramanujnagar, District Surajpur,
Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Tribal And Scheduled Cast Development Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. Commissioner Tribal And Scheduled Cast Development Department Raipur, District Raipur, Chhattisgarh.
3. Additional Collector/ Assistant Commissioner Tribal Development Surajpur, District Surajpur, Chhattisgarh.
4. Block Education Officer Ramanujan District Surajpur, Chhattisgarh.

---Respondents

For Petitioner	:	Mr. Sanjay Pathak, Advocate
For State	:	Mr. Syed Majid Ali, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/12/2018

1. The claim of the petitioner is for a direction to the respondents to consider the case of the petitioner for grant of two additional increments on account of the petitioner having undertaken B.Ed. degree course.
2. Perusal of the record would show that the petitioner has not in fact obtained a degree in B.Ed., but has participated in a course of **Shiksha Visharad** from the *Hindi Sahitya Sammelan, Allahabad*, which the petitioner claims to be equivalent to that of B.Ed.
3. At this juncture, it would be relevant to refer to the judgment of the Hon'ble Supreme Court in the case of "**Rajasthan Pradesh Vaidya Samiti, Sardarshahar & Anr. v. Union of India & Ors.**" and other

connected appeals, reported in **2010 (12) SCC 609**, where the Hon'ble Supreme Court in paragraphs No. 30 to 33 has held as under:-

*“30. In **UmaKant Tiwari & Ors. Vs. State of U.P. & Ors. (2003) 4 AWC 3016**, a Division Bench of the Allahabad High Court has considered the issue at length and came to the conclusion that the Hindi Sahitya Sammelan Allahabad/Prayag were only registered societies and not educational institutions. The said societies had no business to impart education in medical sciences. Hindi Sahitya Sammelan, Allahabad was a fake institution whereas Hindi Sahitya Sammelan, Prayag was recognised only from 1931 to 1967.*

*31. In **Dr. Vijay Kumar Gupta & Ors. Vs. State of U.P. & Ors. (1999) AWC 1783**, a Division Bench of the Allahabad High Court has held that a degree/certificate/diploma from Hindi Sahitya Sammelan, Prayag acquired after 1967 was not recognised and those who obtained the same subsequent to 1967 were not entitled to practice medicines.*

*32. In **Dr. Vijay Kumar Gupta & Ors. Vs. State of U.P. & Ors. (1999) 2 UPLBEC 1063**, a Division Bench of the Allahabad High Court considered the matter at length alongwith statutory provisions of the Act, 1970 and came to the conclusion that Hindi Sahitya Sammelan, Allahabad had never been empowered to issue such certificates/degrees. However, certificates issued by the Hindi Sahitya Sammelan, Prayag were recognised during the period of 1931 to 1967. Thus, any such certificate subsequent thereto could not entitle a person to practice medicine.*

*33. In **Virender Lal Vaishya Vs. Union of India & Ors. 2003 (2) Mah.LJ 64**, a Division Bench of the Bombay High Court held that Hindi Sahitya Sammelan, Prayag was not a recognised university/Board and thus could not award degree, diploma or certificate. In **Charan Singh & Ors. Vs.***

State of U.P. & Ors. AIR 2004 All. 373, the Allahabad High Court considered the issue of validity of certificates issued by Hindi Sahitya Sammelan, Prayag and came to the conclusion that the said institution had absolutely no authority to confer any degree or diploma of “Vaidya Visharad” and “Ayurved Ratna” after 1967 and any person who has acquired such certificate after 1967 was not entitled to practice at all.”

4. Based on the aforesaid decisions, the Hon'ble Supreme Court in paragraph No. 51 has held as under:-

“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 a University/Deemed University nor an Educational Board.

(II) It is a Society registered under the Societies Registration Act.

(III) It is not an educational institution imparting education in any subject inasmuch as the 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 ever been made by the Society to get recognition as required under Section 14 of the Act, 1970 and further did not seek modification of entry No. 105 in II Schedule to the Act, 1970.

(VI) Hindi Sahitya Sammelan only conducts examinations without verifying as to whether the

candidate has some elementary/basic education or has attended classes in Ayurveda in any recognized college.

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

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

(IX) The right to practice 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 practice without possessing the requisite qualification prescribed in Schedule II, III & IV to the Act, 1970 is not violative of Article 14 or ultra vires to any of the provisions of the State Act.”

5. Given the aforesaid findings of the Hon'ble Supreme Court, this Court is of the opinion that the petitioner does not seem to have the requisite qualification, with which it could be said that he has the qualification of B.Ed. course enabling him to get the benefit of two increments.
6. The writ petition thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge