

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

Writ Petition No.44944 of 2017

ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The validity of Rule IV(2) of the Telangana Direct Recruitment for the posts of Teachers Rules, 2017 (for short the "2017 Rules") notified in G.O. Ms.No.25 dated 10.10.2017 is subjected to challenge in this Writ Petition. Rule 4 of the 2017 Rules prescribes the qualifications for different posts. For the post of Physicals Education Teacher (PET), the qualification prescribed in the said Rules are as under:

"IV. Physical Education Teacher:-

1. Must possess Intermediate (or its equivalent) recognised by the Board of Intermediate Education, Telangana with minimum 50% marks.

And

A Certificate/ Under Graduate Diploma in Physical Education / Diploma in Physical Education from an institution recognised by the NCTE.

And

2. Must possess a Bachelor's Degree.

And

Bachelor of Physical Education (B.P.Ed.) of at least one year duration from any institution recognised by NCTE."

Sri S.Rahul Reddy, Learned Counsel for the petitioners, would submit that, since the minimum qualification stipulated in the National Council for Teacher Education (Determination of Minimum Qualifications for persons to be recruited as Physical Education Teachers in Primary, Upper Primary, Secondary, Senior Secondary or Intermediate Schools or Colleges) Regulations, 2014 (for short, the "2014 Regulations"), cannot be said to have been fulfilled by a candidate who possesses a Bachelor's Degree in Physical Education, that part of the 2017 Rules, which make them eligible, is liable to be struck-down.

The Second Schedule to the 2014 Regulations prescribes the qualifications for Classes I to VIII and reads as under:

LEVEL	MINIMUM ACADEMIC AND PROFESSIONAL QUALIFICATIONS
Primary and Upper Primary (For Classes – I to VIII)	a(i) Senior Secondary (Class XII or its equivalent) with at least 50% marks from recognised board Or Candidates who have passed the Senior Secondary examination (+2) or its equivalent and have participated in sports/games at least school/college/district level in accordance with the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2007 notified on 10.12.2007. Or Senior Secondary (Class XII or its equivalent) with at least 45% marks from recognised board in accordance with the National Council for Teacher Education (Form of application for recognition, the time limit of submission of application, determination of norms and standards for recognition of teacher education programmes and permission to start new course or training) Regulations, 2002 notified on 13.11.2002 and b) Certificate/Diploma in Physical Education of duration not less than two years (or its equivalent) from any National Council for teacher Education recognized institution.

Section 23(1) of the Right of Children to Free and Compulsory Education Act, 2009 (for short the “2009 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. What Section 23(1) requires is that a person, possessing the minimum qualifications stipulated by the NCTE in the 2014 Regulations, should not be rendered ineligible for appointment as a teacher. That does not mean that candidates, who possess higher qualifications, should be excluded from consideration. It is not even the petitioners case that candidates, who fulfil the qualifications stipulated in the

Second Schedule to the 2014 Regulations, have been excluded from consideration.

The submission of Sri S. Rahul Reddy, Learned Counsel for the petitioners, is that, while the prescribed qualification is a certificate in Physical Education / Diploma in Physical Education from an institution recognised by the NCTE, a Bachelor's Degree and a Bachelor's degree in Physical Education (B.P.Ed.) of at least one year duration, from any institution recognised by NCTE, is not a certificate or a diploma course in Physical Education. While it is, no doubt, true that B.P.Ed is not a certificate or diploma course, the former is an under graduate degree course in Physical Education, and is a higher qualification than a certificate or a diploma course in Physical Education.

As long as candidates, who possess the minimum qualification notified in the 2014 NCTE Regulations, are not disabled from participating in the examinations scheduled to be held for recruitment of teachers, the fact that the Rules, notified in G.O.Ms.No.25 dated 10.10.2017, also makes candidates, with higher qualification, eligible for consideration, would not render the 2017 Rules arbitrary or irrational or, for that matter, as falling foul of Section 23(1) of the 2009 Act. The challenge to the validity of the Rules notified in G.O.Ms. No.25 dated 10.10.2017, to the extent it prescribes the qualification of a Bachelor's degree and Bachelor degree in Physical Education (BPEd) as among the eligible qualifications for an applicant to be considered for selection as a physical education teacher, necessitates rejection.

The Writ Petition fails and is, accordingly, dismissed.
Miscellaneous Petitions pending, if any, shall also stand dismissed.
There shall be no order as to costs.

RAMESH RANGANATHAN, ACJ

GUDISEVA SHYAM PRASAD, J.

Date:03rd January, 2018.
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