

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: January 24, 2018

+ **W.P.(C) 5279/2017 & C.M. 22382/2017**

MANOJ KUMAR Petitioner

Through: Mr. Ranjit Sharma, Advocate

Versus

UNION OF INDIA & ANR. Respondents

Through: Mr. Brajesh Kumar, Advocate for
respondent No.1

Mr. A. Gupta, Advocate for respondent No.2

Respondent No.3 through father.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

ORAL

1. In pursuance to vacancy Circular/Advertisement (*Annexure P-1*), petitioner and respondent No.3-*Hemlata Bawa* had applied for the post of Primary Teacher in the Scheduled Caste Category. As per Circular/Advertisement (*Annexure P-1*), after the written test, eligible candidates were required to submit the requisite documents and thereafter, interview was to be held for the reserved post of Primary Teacher in question.

2. Learned counsel for respondent-Institute informs that Circular/Advertisement (*Annexure P-1*) was issued in March, 2016, which was followed by a Notice of 27th April, 2016 (*Annexure P-4*),

which dispensed with the interview while indicating that marks for additional qualifications would be (i) five marks for PG Diploma (ii) six marks for PG degree and (iii) seven marks for MPhil/ Professional qualification in the field. It is not in dispute that petitioner is having Post Graduate Degree in Economics whereas respondent No.3- *Hemlata Bawa* is having degree of Masters in Education (MEd), for which she has been given seven marks. It is also not in dispute that petitioner had secured 57.5 marks whereas respondent No.3- *Hemlata Bawa* had secured 58.25 marks.

3. Learned counsel for petitioner submits that as per Notice (*Annexure P-4*), respondent No.3- *Hemlata Bawa* has been granted seven marks for additional qualification, whereas petitioner has not been granted six marks for additional qualification i.e. Post Graduate Degree in Economics. It is submitted that once petitioner gets six marks for Post Graduate Degree in Economics, then his score would be 63.5 marks, whereas respondent No.3- *Hemlata Bawa* has 58.25 marks and so, in place of respondent No.3- *Hemlata Bawa*, petitioner ought to be appointed as Primary Teacher. To submit so, reliance is placed upon Supreme Court's decision in *Bishnu Biswas and Ors. Vs. Union of India and Ors.* (2014) 5 SCC 774.

4. On the contrary, learned counsel for respondent- Institute submits on behalf of third respondent also, that as per Circular/ Advertisement (*Annexure P-1*), decision of respondent-Institute regarding eligibility of candidates is final and fulfillment of condition of minimum qualification does not necessarily entitle any applicant for being recruited and

respondent-Institute in its wisdom has found respondent No.3- *Hemlata Bawa* to be better qualified to be appointed on the post in question, as she holds Post Graduate degree in the field in question, whereas Post Graduate Degree of petitioner is of no use for teaching primary classes. Reliance is placed by respondent's counsel upon Supreme Court decision in *University Grants Commission & Anr. Vs. Neha Anil Bobde (Gadekar)* (2013) 10 SCC 519 to submit that final qualifying criteria was left to be decided by the concerned institution before declaration of the result and while considering the aforesaid aspect, Supreme Court has made it clear that the Court shall keep their hands off in academic matters, as such issues fall within the domain of experts and it was open to the UGC to lay down any qualifying criteria, which has rational nexus to the object to be achieved.

5. It is pointed out by respondent's counsel that in the instant case, as per Clause-19 of Circular/ Advertisement (*Annexure P-1*), respondent-Institute had reserved the right to short list the candidates in the manner considered appropriate and since third respondent was holding the Post Graduate Degree in the field in question, therefore, she was preferred over and above petitioner and so, the decision relied upon by petitioner's counsel have no application to the facts of the instant case.

6. Upon hearing and on perusal of the material on record and the decisions cited, I find that in academic matters, the courts hesitate to interfere unless there is clear violation of statutory provisions or the regulations, as it is within the domain of authorities concerned to lay down the qualifying criteria. While keeping in mind the ratio of Supreme

Court's decision in *University Grants Commission (supra)*, I have carefully perused the Circular/ Advertisement (*Annexure P-1*) in question and thereupon I find that right to streamline the candidates is within the domain of respondent-Institute. It is so said as Clause-19 of Circular/ Advertisement (*Annexure P-1*) makes it amply clear that the discretion is with respondent-Institute to appropriately streamline the candidates. As per Clause-14 of Circular/ Advertisement (*Annexure P-1*) the discretion vests with the respondent-Institute to consider the eligibility of candidates. The interview for the post in question has been dispensed with by respondent-Institute vide Notice (*Annexure P-4*), while providing marks for additional qualifications. It is true that seven marks have been provided for additional qualification or professional qualification in the field whereas six marks are for possessing the Post Graduate Degree. Technically, petitioner may be entitled to six marks for possessing Post Graduate Degree in Economics but the suitability aspect has to be considered by respondent- Institute. It is within the domain of respondent- Institute to consider a Post Graduate in field in question to be more suitable than a Post Graduate from any other discipline. Merely because petitioner's marks after addition of six marks would be more than that of third respondent, would not tilt in favour of petitioner, as the suitability aspect is primary consideration.

7. Supreme Court in *University Grants Commission (Supra)* has reiterated that in academic matters, the interference of courts should be minimum. Reliance placed by petitioner's counsel upon decision in *Bishnu Biswas (Supra)* is of no assistance for the reason that the said case

was not pertaining to academic field. Applying the dictum of Supreme Court decision in *University Grants Commission (Supra)* to the facts of instant case, the appointment of third respondent is not required to be interfered with.

8. In view of aforesaid, this petition and application are dismissed while vacating the interim order.

SUNIL GAUR
(JUDGE)

JANUARY 24, 2018

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