

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3642 of 2019

1. Lukesh Nishad S/o Manharan Nishad, Aged About 30 Years, R/o Gauthan Chowk, Ward No. 18, Tekari, District Raipur, Chhattisgarh
2. Avshesh Prakash Kamalsen S/o Gangaram Kamalse, Aged About 30 Years, R/o Village Bharbidih, Sarwan Devri, Bilaspur Chhattisgarh
3. Anjor Singh Bariha S/o Narayan Sing, Aged About 28 Years R/o Village - Kanjiya, Tahsil Kasdol, District Baloda Bazar, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education And Rural Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, Chhattisgarh
2. Director, Directorate Of Chhattisgarh, Public Instruction, Indravati Bhawan, New Raipur, District Raipur, Chhattisgarh
3. Director, Chhattisgarh Vpayam, Board Of Examination, Raipur, District Raipur, Chhattisgarh

---- Respondents

WPS No. 3279 of 2019

1. Kailash Kumar Sen S/o Dhan Singh Sen Aged About 29 Years R/o Village Pipara, Tahsil Keshkal, District Kondagaon Chhattisgarh
2. Ramesh Kumar Dewangan S/o Laikhan Ram Dewangan Aged About 28 Years R/o Village Sonpur, Tahsil Bakawand, District Bastar Chhattisgarh
3. Koudi Ram Dewangan S/o Chamaru Ram Dewangan Aged About 33 Years R/o Village Mangnar, Tahsil Jagdalpur, District Bastar Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education And Rural Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur Chhattisgarh
2. Director, Directorate Of Chhattisgarh Public Instruction Indravati Bhawan New Raipur, District Raipur Chhattisgarh
3. Director, Chhattisgarh Vpayam, Board Of Examination, Raipur District Raipur Chhattisgarh

---- Respondents

WPS No. 3390 of 2019

1. Sarojani Baghel D/o Santosh Kumar Baghel Aged About 27 Years R/o Village Singhri, Tahsil And District Bilaspur Chhattisgarh
2. Tripti D/o Manrakhan Singh Aged About 23 Years R/o Village Dongar Tarai, Bhawar, Korba, Tahsil And District Korba Chhattisgarh
3. Smt. Meera Vaishnav W/o Shri Manohar Das Vaishnav Aged About 36 Years R/o Village Samesar, Tahsil Nawagarh, District Bemetara Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education And Rural Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur Chhattisgarh
2. Director, Directorate Of Chhattisgarh Public Instruction Indravati Bhawan, New Raipur, District Raipur Chhattisgarh
3. Director, Chhattisgarh Vpayam, Board Of Examination, Raipur, District Raipur Chhattisgarh

---- Respondents

WPS No. 3594 of 2019

Hriday Ram S/o Mohan, Aged About 32 Years R/o Village-Tongaripara(Barhi), Tahsil Devbhog, District Raipur, Chhattisgarh

2. Chitracot Kushwaha S/o Mohan Ram Kushwaha, Aged About 39 Years R/o- 127/5, Ward No. 3, Wadrafnagar, Balrampur, District Balrampur, Chhattisgarh
3. Komal Singh Verma S/o Indal Singh Verma, Aged About 33 Years R/o- Bahera, District Bemetara, Chhattisgarh
4. Dhannajay Verma S/o Ashok Kumar Verma, Aged About 34 Years R/o- House No. 97, Kurmipara, Bahera, District Bemetara, Chhattisgarh

---- **Petitioners**

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education And Rural Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, Chhattisgarh
2. Director, Directorate Of Chhattisgarh Public Instruction, Indravati Bhawan, New Raipur, District Raipur, Chhattisgarh
3. Director, Chhattisgarh Vpayam, Board Of Examination, Raipur, District Raipur, Chhattisgarh

---- **Respondents**

For Petitioners	:	Shri Kishan Lal Sahu, Advocate
For State	:	Shri Saleem Kazi, Dy. A.G., Shri Jitendra Paly, Dy. A.G. & Shri Rahul Mishra, Dy. G.A.
For Respondent 3	:	Dr. Saurabh Kumar Pandey, Advocate

WPS No. 2261 of 2019

1. Chandra Prakash Sahu S/o Shri Puniram Sahu, Aged About 39 Years R/o Village And Post Tusma, Thana And Tehsil Shivrinarayan, District Janjgir Champa, Chhattisgarh
2. Devendra Kumar Sahu S/o Shri Nohar Das Sahu, Aged About 30 Years, R/o Village Kauhakuda, Post Ghonch, Tahsil Pidhora, District Mahasamund, Chhattisgarh

3. Palan Das Bharti S/o Shri Kalam Das Bharti, Aged About 35 Years
R/o Village Chandalpur, Post Ramhepur, Tahsil Bodla, District
Kabirdham Chhattisgarh
4. Sharad Chandravanshi S/o Shri Ghanshyam Aged About 31 Years
R/o Village Kumhi, Post Bodtarakhurd, Tahsil Pandariya District
Kabirdham Chhattisgarh
5. Pradeep Kumar Loniya S/o Shri Revaram Loniya, Aged About 30
Years R/o Village Navrangpur, Post Ramhepur Tahsil Lormi, District
Mungeli Chhattisgarh
6. Rupendra Sahu S/o Shri Hetram Sahu Aged About 30 Years R/o
Village Kalmi, Post Dhanagar Tahsil Raigarh, District Raigarh
Chhattisgarh
7. Rupesh Kumar Tarak S/o Shri Patiram Tarak, Aged About 27 Years
R/o Village Jawaibatha Post Khola, District Raipur Chhattisgarh
8. Pawan Kumar, S/o Shri Liladhar Dhruv, Aged About 30 Years R/o
Village Gadhshivni, Post Tumgaon, Tehsil Mahasamund District
Mahasasmund Chhattisgarh
9. Lalaram Sahu S/o Shri Shankarlal Sahu Aged About 36 Years R/o
Village Kumhari, Tehsil Kashdol, District Baloda Bazar Bhatapara
Chhattisgarh
10. Dhanraj Yadav, S/o Shri Kunjram Yadav, Aged About 30
Years R/o Bilaspur Post Juna Bilaspur District Bilaspur Chhattisgarh
11. Smt. Rameshwari Sinha, W/o Shri Khemchand Sinha, Aged
About 31 Years R/o Village Narayangarh, Post Chichola, Tehsil
Dongargarh District Rajnandgaon Chhattisgarh
12. Smt. Sulekha Sinha, W/o Shri Vishnu Sinha, Aged About 32
Years R/o Village Gaurinagar, Tehsil Rajnandgaon, District
Rajnandgaon Chhattisgarh
13. Khilawan Prasad Patel S/o Shri Rajaram Patel, Aged About
28 Years R/o Village Kumhari, Tehsil Kashdol, District Baloda Bazar
Chhattisgarh

14. Dilharan Karsh S/o Shri Ramratan Karsh, Aged About 28 Years R/o Village Kumhari, Tehsil Kashdol, District Baloda Bazar Chhattisgarh
15. Kamal Kishore Dewangan, S/o Ram Kumar Dewangan, Aged About 31 Years R/o Juna Bilaspur, District Bilaspur Chhattisgarh
16. Smt. Shilochni Chandravanshi W/o Sharad Chandravanshi, Aged About 26 Years R/o Village Kumhi, Tehsil Mandariya, District Kabirdham Chhattisgarh
17. Ghanshyam Chandrawanshi, S/o Shri N. Chandrawanshi Aged About 38 Years R/o Village Karimati, Tehsil Karimati, District Kabirdham Chhattisgarh
18. Virendra Kumar Sahu S/o Shri Ganpat Lal Sahu Aged About 27 Years R/o Village Loharsi, Tehsil Rajim, District Gariyaband Chhattisgarh
19. Kamal Singh Loniya S/o Shri Tarasingh Loniya, Aged About 32 Years R/o Village Ujiyarpur, Tehsil Lormi, District Mungeli Chhattisgarh
20. Rameshwar Prasad Anchal, S/o Shri Tiharu Ram Anchal, Aged About 32 Years R/o Village Basin, Tehsil Malkharoda, District Janjgir Champa Chhattisgarh
21. Sonoo Ram Tandon S/o Shri Ramlal Tandon, Aged About 38 Years R/o Village Parsadih, Tehsil Bhilaigarh District Baloda Bazar Chhattisgarh
22. Manoj Kumar Karsh S/o Shri Haricharan Karsh, Aged About 36 Years R/o Village Kumhari, Tehsil Kashdol, District Baloda Bazar Chhattisgarh
23. Gyaneshwar Prasad Pandey, S/o Shri Ram Prasad Pandey, Aged About 31 Years R/o Village Kumari, Tehsil Kashdol, District Baloda Bazar Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
2. Director, Directorate Of Public Instruction, Indrawati Bhawan, Atal Nagar, Raipur Chhattisgarh
3. Chhattisgarh Professional Examination Board, Through Its Secretary, Shailendra Nagar Raipur Chhattisgarh
4. National Council Of Teacher Education , Through Its Secretary, Wing - II, Hans Bhawan, 1, Bahadur Shah Zafar Marg, New Delhi , 110002

---- Respondents

For Petitioners	:	Shri Mateen Siddiqui, Advocate
For State	:	Shri Saleem Kazi, Dy. A.G., Shri Jitendra Paly, Dy. A.G. & Shri Rahul Mishra, Dy. G.A.
For Respondent 3 :		Dr. Saurabh Kumar Pandey, Advocate

WPS No. 2973 of 2019

1. Vijay Kumar Sahu S/o Resham Lal Sahu Aged About 37 Years R/o Village Karhi, Post Kikirda, Tahsil Jaijaipur, District- Janjgir-Champa, Chhattisgarh
2. Kanha Kinkar Shukla S/o Balbhadra Prasad Aged About 32 Years R/o Masaniya Kala, Beech Basti, District- Janjgir-Champa, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary Department Of Public Instruction, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District- Raipur, Chhattisgarh
2. Director, Directorate Public Instruction Chhattisgarh, Indrawati Bhawan Raipur, District- Raipur, Chhattisgarh
3. Secretary School Education Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District- Raipur, Chhattisgarh

4. Chhattisgarh Professional Examination Board Vyapam Bhawan,
North Block Sector- 19 Atal Nagar, Chhattisgarh

---- Respondents

For Petitioners	:	Shri Atanu Ghosh, Advocate
For State	:	Shri Saleem Kazi, Dy. A.G., Shri Jitendra Paly, Dy. A.G. & Shri Rahul Mishra, Dy. G.A.
For Respondent 3 :		Dr. Saurabh Kumar Pandey, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

13/05/2019

1. These bunch of writ petitions are common in nature in as much as the challenge in all these cases is to the advertisement dated 09.03.2019 whereby the Directorate of Public Instructions has advertised for filling up various posts of Lecturer, Teacher and Assistant Teacher lying vacant in the department. The challenge in all these writ petitions is to the advertisement for filling up the post of Assistant Teachers.
2. The substantive challenge to the advertisement is on the ground that the advertisement is contrary to the rules framed by the State Govt. According to the petitioners, the post of Assistant Teacher cannot be advertised subject wise as for the said post there is no classification which is provided under the service rules. It is the contention of the petitioners that so far as the Assistant Teachers are concerned, the requirement is common and that there is no subject wise recruitment to be made as these assistant teachers are meant for teaching in Primary and Middle Schools where an assistant teacher is required to teach all the subjects. Therefore, the condition imposed by the State Govt. in the

advertisement that the candidates who intend to apply must have done their minimum educational qualification in science subject is bad in law. According to the petitioners, the requirement of having done their higher secondary examination in science group is arbitrary, discriminatory and contrary to the rules and therefore, is violative of Article 14 of the Constitution of India. Counsel for the petitioners referred to the rules framed by the State Govt. governing the field which is known as the Chhattisgarh School Education Services (Education Administrative Cadre) Recruitment and Promotion Rules, 2019 and referring to Schedule-3 of the said rules submitted that the minimum educational and technical requirement for the post of assistant teacher has been shown what is as per Annexure 1(one) of the Rules. Referring to the aforesaid Annexure 1(one), the contention of the petitioners is that nowhere does the said annexure or rule provision envisages the requirement of passing of higher secondary or senior secondary in the concerned subject. According to the petitioners, all that is prescribed under the advertisement is that the candidate should have the minimum qualification as is prescribed in the Annexures and as such, there can be no bar for any candidate who has got the minimum qualification prescribed for participating in the recruitment for the post of assistant teacher irrespective of the subject.

3. This Court had asked the State Govt. to seek instruction so far as the merits of the case is concerned.
4. State counsel submits that they have filed their reply in a couple of writ petitions and their stand in all the writ petitions defending the

advertisement is similar. According to the State counsel, the advertisement itself is very clear and that there is no ambiguity for the petitioners to have any sort of apprehension. According to the respondents, the different posts of Assistant Teachers advertised are as under:

- i) Assistant Teachers (E Cadre, Science Subject, Non- gazetted, Class-III
- ii) Assistant Teachers (T Cadre, Science Subject, Non- gazetted, Class-III
- iii) Assistant Teachers (Science Laboratory) (E Cadre Non-gazetted Class-III
- iv) Assistant Teachers (Science Laboratory) (T Cadre non-gazetted Class-III
- v) Assistant Teachers, English Medium (Arts Group) Non-gazetted Class-III
- vi) Assistant Teachers, English Medium (Science Group) Non-gazetted Class-III

E Cadre means Education Cadre and T Cadre means the Cadre in the Tribal Department

5. According to Shri Jitendra Pali, Dy. Advocate General, it is a case where the advertisement itself very specifically denotes that the posts advertised are for science subject and it is for this reason, the requirement prescribed under the advertisement is that of candidates with science background.
6. State counsel, at the same time, on a query from the Court makes a statement that so far as the advertisement for the post of Assistant

Teacher English Medium (Arts group) Non-gazetted Class-III is concerned, there shall be no requirement for the candidates with higher secondary in science subject as these posts are exclusively meant for the assistant teachers in Arts group. All the petitioners who fulfill the minimum qualification prescribed in arts subject can apply for the said post and as such the petitioners should not have any apprehension of they not being permitted to apply for the said posts.

7. Shri Pali further referring to the set up in the State Govt. i.e. Annexures-R-3(2) drew the attention of the Court to the posts lying vacant. In the said document it clearly reflects that the setup available in the department for Assistant Teachers was subject wise i.e. Assistant Teachers/Shiksha Karmi Grade-III in arts group, science group and other groups. Further referring to a document Annexure R(1)3) enclosed along with the return of the State Govt. he submitted that the Joint Director recently on verification of the statistics found that in the department there is already a surplus of about 2,000 assistant teachers belonging to Arts and other groups whereas in the science group, there is a deficit of more than 8,600 assistant teachers. According to Shri Pali, based on these statistics which were collected by the Joint Director, Public instructions the department thought of issuing advertisement for filling up of the posts of assistant teachers in science subject. Referring to the aforesaid enclosures enclosed with their return Shri Pali stressed upon the fact that since as per the data collected there is a huge deficit of assistant teachers with science background, the State Govt. has taken a conscious decision for filling up of the posts of assistant teachers with science background. This according to the State counsel cannot be said to be

arbitrary or violative of Article 14 as there is no discrimination made by the State Govt. Thus prayed for rejection of the writ petitions.

8. Having heard the counsel appearing for the parties and on perusal of record what is undisputed is the different categories of posts advertised for assistant teachers as is reflected in paragraph-4 of this judgment. The very classification or the categories itself would give a clear picture that the requirement of the State Govt. was for Assistant Teachers with science background and among the said categories, there is one category which is exclusively for Assistant Teachers in arts group.
9. So far as the post of Assistant Teacher English Medium Arts group is concerned, counsel appearing for the State has made a categorical statement that the petitioners are entitled to participate for the said posts. The State Govt. as a matter of policy, way back in the year 2008 itself, had issued a circular enshrining that in primary schools, 50% of the teachers should be from science group and 50% should be from Arts group. Likewise, the State Govt. had also in the year 2008 issued school wise setup and in the said setup, the allocation of the teachers was classified in science group and arts group. Moreover, from the data collected it reflects that from the present strength of assistant teachers available with the respondents, there is a surplus of more than approximately 2,000 assistant teachers belonging to the arts group and at the same time, there is a deficit of more than 8,600 teachers with science background. With this factual data that is available with the State Govt. if the advertisement has been issued by the State Govt. with a clear intention for filling up the post of assistant teachers with science

background, the same by no means can be said to be arbitrary or contrary to rules. It is also pertinent to take note of the fact that the rules of 2019 governing the service conditions of assistant teachers particularly scheduled 2 shows the number of posts available and the mode of recruitment. The entries made at serial no.36 in the said schedule 2 depicts the details of assistant teachers and the mode of recruitment has been shown to be 100% by way of direct recruitment. At the same time, in the remarks column it has been mentioned that the direct recruitment would be subject wise. This by itself gives an indication that the State Govt. while framing the rules had taken note of the fact that the assistant teachers to be appointed should be from different subject group i.e. science group, arts group and other groups. It is not that the rule does not provide for any classification as such.

- 10.** So far as the contention of the petitioners that since they fulfill the minimum eligibility criteria fixed for participating in TET (Teacher Eligibility Test) and also fulfill the minimum educational qualification for participating in the Chhattisgarh Teacher Eligibility Test, they cannot be barred from applying for the post of Assistant Teacher only on the ground that they do not come from science background is concerned, this Court is of the opinion that, that is the minimum qualification prescribed for attaining a particular qualification or for obtaining a particular eligibility criteria, but that does not by itself mean that the State govt is totally barred from having a policy of filling up the post of Assistant teachers in the department by 50% with science background and 50% with arts background.

- 11.** It is a known fact that for teaching science subject even at primary schools it is the teachers with science background who would be better equipped whereas if the teachers with arts group is entrusted to teach science to the students even in primary schools this Court has serious doubt as to how well they would be able to teach science subject to the students. If the State Govt. with this intention has decided to have 50% of the teachers with science background and 50% of the teachers with arts background, the same can be very well brought within the ambit of a reasonable classification with the purpose and object behind it and with the said policy decision if an advertisement has been issued, the same cannot be held to be illegal, arbitrary or contrary to the rules.
- 12.** It is always within the power of the State Govt. to frame rules and fix criteria and also to have guidelines so far as imparting education in the State is concerned in order to keep a minimum standard of teaching for which also if some classification has been made for appointment of assistant teachers keeping the larger public interest, the same cannot be said to be arbitrary or contrary to rules. Therefore, the impugned advertisement does not warrant any interference.
- 13.** Moreover, the State counsel has made a submission before the Court that for filling up of the posts of Assistant Teachers in English Medium Arts Group there would be no insistence for candidates belonging science background alone for applying and the petitioners would also be eligible for participating for the said posts.
- 14.** What also cannot be brushed aside is that if at a later stage the Govt. issues an advertisement for filling up the post of Assistant Teachers

in Arts Group and insists for the minimum education having undertaken in arts group, under the said circumstance the candidates belonging to science category would not be able to apply for the said post then.

15. The writ petitions accordingly stand dismissed.

**Sd/-
(P. Sam Koshy)
Judge**

Khatai