

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3586 of 2019

1. Arun Kumar Pathak S/o Shri Ramesh Prasad Pathak Aged About 43 Years R/o Venkat Nagar Road, Pendraroad, District- Bilaspur, Chhattisgarh.
2. Rashmi Agrawal D/o Rakesh Kumar Agrawal Aged About 28 Years R/o Station Road, Pendraroad Bilaspur, District- Bilaspur, Chhattisgarh.
3. Lukesh Shrivastava S/o Dron Singh Shrivastava Aged About 27 Years R/o Near Hanuman Temple, Lormi, District- Mungeli, Chhattisgarh.
4. Deepesh Khare S/o Prabhat Khare Aged About 40 Years R/o Mahadev Nagar, Raipur, District- Raipur, Chhattisgarh.
5. Babita Bhoi D/o Bashudev Pradhan Aged About 32 Years R/o Infront Of Nagar Nigam Zone-1, Khamtarai, Raipur, District- Raipur, Chhattisgarh.
6. Sapna Gupta D/o L.L. Gupta Aged About 39 Years R/o Quarter No. B-18, Krishna Nagar, Pahadi Chowk, Raipur, District- Raipur, Chhattisgarh.
7. Sandeep Kumar Rathore S/o D.P. Rathore Aged About 27 Years R/o Old Chandaniya Para Janjgir, District- Janjgir-Champa, Chhattisgarh
8. Shailesh Kumar Dewangan S/o Munna Lal Dewangan Aged About 26 Years R/o Manoj Bojje House, Muslim Garage Road, Pathalgaon, District- Jashpur, Chhattisgarh.
9. Narendra Patel S/o Nandlal Patel Aged About 26 Years R/o Bagudega, Tahsil Lailunga, District- Raigarh, Chhattisgarh.
10. Peeyush Pankaj S/o Yugesh Kumar Bhardeeya Aged About 30 Years R/o Village And Post Office Utai, Block And District- Durg, Chhattisgarh.
11. Dhanendra Kumar Sahu S/o Kedara Ram Aged About 28 Years R/o Village And Post Koyalari, Tahsil Sahaspur Lohara, District- Kabirdham, Chhattisgarh.
12. Narendra Kumar S/o Vishnu Prasad Aged About 24 Years R/o Bhumiya Post Sarora, Block Tilda, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education, Mahanadi Bhawan, Mantralaya New Raipur, District- Raipur, Chhattisgarh.
2. Director Directorate Of Chhattisgarh, Police Instruction Indravati Bhawan, Naya Raipur, District- Raipur, Chhattisgarh.

---Respondents

For Petitioners	:	Mr. Anurag Jha, Advocate
For State	:	Mr. P. Acharya, Panel Lawyer

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

14/05/2019

1. The challenge in the present writ petition is to the advertisement dated 09.03.2019, which is an advertisement issued by the State Government, Directorate of Public Instructions for filling up of various posts of Lecturers and Teachers in the Education as well as in the Tribal Welfare Department.
2. The challenge in the present writ petition is to the insistence of the respondents of a candidate having B.Ed./D.Ed./T.E.T. apart from minimum qualification prescribed for the recruitment for the subjects in English, Science and Maths. The petitioners are Diploma and Degree holders and as such they are having the basic qualification for appointment to the post of Teachers, but none of these petitioners have the qualification of B.Ed./D.Ed./T.E.T. which is also the mandatory requirement as per note-1 in the advertisement prescribing the minimum qualification.
3. The contention of the petitioners is that the requirement of B.Ed./D.Ed./T.E.T. has been waived by the State Government for appointment of the Teachers and Assistant Teachers in the subject of Agriculture and Physical Education. The claim of the petitioners is that since the respondents have waived the requirement of B.Ed./D.Ed./T.E.T. for Teachers and Assistant Teachers in the Agriculture and Physical Education subject, the petitioners also should get the benefit of same waiver for the other subjects also. According to the petitioners, insisting of the said qualification for the subjects of English, Science and Maths

would be discriminatory and also be violative of Article 14 of the Constitution of India.

4. The fact which needs to be considered is that the recruitment process initiated is for the post of Lecturers, Teachers and Assistant Teachers in the Education as well as in the Tribal Welfare Department of the Government of Chhattisgarh. The Rules governing the service conditions is the **“Chhattisgarh School Education Services (Educational and Administrative Cadre) Recruitment and Promotion Rules, 2019”**. The said Rules prescribe for the minimum qualification for recruitment to the posts reflected in the said Rules.
5. Perusal of the Rules would show that there is a requirement of having B.Ed./D.Ed./T.E.T. for applying to the posts under the said Rules. When the Rules prescribe a particularly minimum qualification for a post and the advertisement also is in consonance to the Rules so framed, the waiving of the Rules for a particular category or for subject by itself would not become violative of Article 14 for the reason that waiver for having B.Ed./D.Ed./T.E.T. for subjects like Agriculture and Physical Education cannot be equated for appointment of Teachers in the subjects English, Science and Maths.
6. Merely because the petitioners have the qualification of Diploma/Degree in a particular subject, by itself would not be sufficient for becoming eligible for participating in a recruitment process. In order to become eligible for participating in the recruitment process, the candidates must possess the minimum qualification prescribed under the service rules governing the field. The petitioners in the present writ petition have not

pleaded that the petitioners do fulfill the minimum qualification prescribed under the Rules. It is also not the case where the petitioners say that the advertisement is contrary to the Rules governing the service conditions.

7. So far as the waiver is concerned, the facts that the Government has given waiver to only two of the subjects i.e. Agriculture and Physical Education, itself would reveal that the decision was a conscious decision taken by the State Government while issuing the advertisement taking into consideration the entire facts and circumstances and also the requirement and the nature of work to be performed by the Teachers in the Agriculture and Physical Education subject. The waiver of the said requirement of B.Ed./D.Ed./T.E.T. for these two subjects would rather be a case of a reasonable classification for justified reasons. The granting of waiver in one subject cannot be a ground as a matter of right for the petitioners for claiming a similar waiver for appointment of Lecturers, Teachers and Assistant Teachers in the main subjects of English, Science and Maths. Moreover, there are Rules framed by the **Government of India, National Council for Teacher Education, New Delhi**, which also prescribe certain minimum qualification for appointment of Lecturers, Teachers and Assistant Teachers. All these instructions, which have been laid down by the National Council as well as by the State Council has prescribed the requirement of B.Ed./D.Ed./T.E.T. for appointment of a Teacher.
8. Since it is a requirement of Rules and Regulations governing the field and the advertisement being inconsonance to the said Rules, this Court does not find any strong case made out by the petitioners for

interference with the advertisement at this stage, particularly when admittedly none of the petitioners have B.Ed./D.Ed./T.E.T. certificate with them for participating.

9. The writ petition thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Ved