

***IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH***

1. C.W.P No. 31702 of 2018

Rakesh Kumar and others ...Appellants

Versus

State of Haryana & ors. ...Respondents

2. C.W.P No. 32528 of 2018

Mani Pal and others ...Appellants

Versus

Haryana Staff Selection Commission & ors. ...Respondents

3. C.W.P No. 31501 of 2018

Manju Yadav ...Appellant

Versus

State of Haryana & ors. ...Respondents

4. C.W.P No. 32534 of 2018

Manjeet and others ...Appellants

Versus

Haryana Staff Selection Commission & ors. ...Respondents

5. C.W.P No. 32527 of 2018

Mamta Sharma and others ...Appellants

Versus

Haryana Staff Selection Commission & ors. ...Respondents

6. C.W.P No. 31692 of 2018

Vikas Kumar ...Appellant

Versus

State of Haryana & ors. ...Respondents

7. C.W.P No. 31505 of 2018

Meena Rani ...Appellant

Versus

State of Haryana & anr. ...Respondents

8. C.W.P No. 33459 of 2018

Sudesh Kumar ...Appellants
Versus

State of Haryana & ors. ...Respondents

9. C.W.P No. 239 of 2019

Pravesh Kaushik ...Appellant
Versus

State of Haryana & ors. ...Respondents

10. C.W.P No. 33476 of 2018

Naveen Kumar ...Appellant
Versus

State of Haryana & ors. ...Respondents

11. C.W.P No. 33506 of 2018

Sony Kumar ...Appellant
Versus

Haryana Staff Selection Commission & ors. ...Respondents

12. C.W.P No. 33516 of 2018

Rajesh Kumar ...Appellant
Versus

Haryana Staff Selection Commission & ors. ...Respondents

13. C.W.P No. 33518 of 2018

Nityanand ...Appellant
Versus

Haryana Staff Selection Commission & ors. ...Respondents

14. C.W.P No. 36178 of 2018

Arun Kumar ...Appellant
Versus

State of Haryana & ors. ...Respondents

15. C.W.P No. 37569 of 2018

Sunil Kumar ...Appellant
Versus

Haryana Staff Selection Commission & ors. ...Respondents

16. C.W.P No. 37575 of 2018

Kiran Kumari ...Appellant
Versus

Haryana Staff Selection Commission & ors. ...Respondents

17. C.W.P No. 37579 of 2018

Renu Bala ...Appellant
Versus

State of Haryana & ors. ...Respondents

18. C.W.P No. 37585 of 2018

Manisha ...Appellant
Versus

State of Haryana & anr. ...Respondents

19. C.W.P No. 37591 of 2018

Satish Kumar ...Appellant
Versus

State of Haryana & ors. ...Respondents

20. C.W.P No. 37620 of 2018

Sandeep and others ...Appellants
Versus

State of Haryana & anr. ...Respondents

21. C.W.P No. 33520 of 2018

Yogita ...Appellant
Versus

Haryana Staff Selection Commission ...Respondent

22. C.W.P No. 31717 of 2018

Myuresh and ors. ...Appellants
Versus

State of Haryana and ors. ...Respondents

23. C.W.P No. 31718 of 2018

Purshotam Sharma and ors ...Appellants
Versus

State of Haryana and ors. ...Respondents

24. C.W.P No. 32029 of 2018

Suman Gupta and ors ...Appellants
Versus

State of Haryana and ors. ...Respondents

25. C.W.P No. 32066 of 2018

Sanjay Sharma and ors ...Appellants
Versus

State of Haryana and ors. ...Respondents

26. C.W.P No. 32091 of 2018

Ajmesh ...Appellant
Versus

Haryana Staff Selection Commission ...Respondent

27. C.W.P No. 32097 of 2018

Kavita Sharma and ors. ...Appellants
Versus

State of Haryana and anr. ...Respondent

28. C.W.P No. 32098 of 2018

Sarita ...Appellant
Versus

State of Haryana and ors. ...Respondent

29. C.W.P No. 32103 of 2018

Munish ...Appellant
Versus

Haryana Staff Selection Commission and ors. ...Respondent

30. C.W.P No. 32105 of 2018

Monika ...Appellant
Versus

State of Haryana and ors. ...Respondent

31. C.W.P No. 32112 of 2018

Savita Devi and others ...Appellants
Versus

State of Haryana and ors. ...Respondent

32. C.W.P No. 32114 of 2018

Parveen Kumari ...Appellant
Versus

State of Haryana and ors. ...Respondent

33. C.W.P No. 32119 of 2018

Jitender Sharma and another ...Appellants
Versus

State of Haryana and anr. ...Respondent

34. C.W.P No. 32122 of 2018

Amit Kumar ...Appellant
Versus

State of Haryana and anr. ...Respondent

35. C.W.P No. 32124 of 2018

Anju Malik ...Appellant
Versus

State of Haryana and anr. ...Respondents

36. C.W.P No. 32136 of 2018

Rajesh Kumari ...Appellant
Versus

State of Haryana ...Respondent

37. C.W.P No. 32223 of 2018

Santro Devi and ors. ...Appellants
Versus

State of Haryana and ors. ...Respondents

38. C.W.P No. 32241 of 2018

Sunil Kumar ...Appellant
Versus

State of Haryana and ors. ...Respondent

39. C.W.P No. 32257 of 2018

Rishi Ram ...Appellant
Versus

State of Haryana and anr. ...Respondent

40. C.W.P No. 32690 of 2018

Parmod Kumar ...Appellant
Versus

State of Haryana and ors. ...Respondent

41. C.W.P No. 32932 of 2018

Savita Devi ...Appellant
Versus

State of Haryana and anr. ...Respondents

42. C.W.P No. 32216 of 2018

Meena Rani ...Appellant
Versus

State of Haryana and ors. ...Respondents

43. C.W.P No. 05 of 2019

Pankaj Kumar and ors. ...Appellants

Versus

State of Haryana and anr. ...Respondents

44. C.W.P No. 144 of 2019

Sanjay Sharma and ors. ...Appellants

Versus

State of Haryana and ors. ...Respondents

45. C.W.P No. 32140 of 2018

Meena Kumari and anr. ...Appellants

Versus

Haryana Staff Selection Commission & ors. ...Respondents

46. C.W.P No. 32141 of 2018

Parveen Kumari and ors. ...Appellants

Versus

State of Haryana & ors. ...Respondents

47. C.W.P No. 32144 of 2018

Sarita and anr. ...Appellants

Versus

Haryana Staff Selection Commission & ors. ...Respondents

48. C.W.P No. 32148 of 2018

Sudesh Kumari & ors. ...Appellants

Versus

State of Haryana & ors. ...Respondents

49. C.W.P No. 32198 of 2018

Ravinder Kumar ...Appellant
Versus

Haryana Staff Selection Commission ...Respondent

50. C.W.P No. 32209 of 2018

Nirmala Devi ...Appellant
Versus

State of Haryana & ors. ...Respondents

51. C.W.P No. 37811 of 2018

Neeraj Devi ...Appellant
Versus

State of Haryana & ors. ...Respondents

52. C.W.P No. 5813 of 2019

Babita Arya ...Appellants
Versus

State of Haryana & anr. ...Respondents

53. C.W.P No. 4758 of 2019

Suman Kumari Arya & ors. ...Appellants
Versus

State of Haryana & anr. ...Respondents

54. C.W.P No. 4734 of 2019

Ruchi Rani ...Appellant
Versus

State of Haryana & anr. ...Respondents

55. C.W.P No. 37599 of 2018

Sumit and ors. ...Appellants
Versus

State of Haryana & anr. ...Respondents

56. **C.W.P No. 37624 of 2018**

Sunil Kumar

Versus

...Appellants

Haryana Staff Selection Commission & ors.

...Respondents

Date of decision:- 06.11.2019

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present : Dr. Balram Singh, Advocate
for the applicant.

For the petitioners:-

Mr. Rajiv Atma Ram, Sr. Advocate with
Mr. Ranjit Singh Kalra, Advocate,
Mr. R.K. Malik, Sr. Advocate with
Mr. Digvijay Singh, Advocate,
Mr. Sanjay Kaushal, Sr. Advocate with
Mr. Anurag Goyal, Advocate,
Mr. M.S. Punia, Advocate,
Mr. Jasbir Mor, Advocate
Mr. Tara Dutt, Advocate for
Mr. Tejpal Dhull, Advocate,
Mr. B.K. Bagri, Advocate
Mr. Sandeep Singh Sangwan, Advocate,
Mr. Ajay Vijrania, Advocate,
Mr. Sumit Sangwan, Advocate,
Mr. A.K. Kansal, Advocate,
Mr. H.S. Maan, Advocate for
Mr. Ravinder Goyal, Advocate,
Mr. Parveen Kumar, Advocate
Mr. Parveen Chauhan, Advocate
Mr. Amandeep Rana, Advocate
Mr. Kuldeep Sheoran, Advocate
Mr. S.K. Kaushik, Advocate
Mr. Jagdish Manchanda, Advocate
Mr. Rakesh Sobti, Advocate
Mr. Manish Bhardwaj, Advocate for
Mr. Ashok Bhardwaj, Advocate and
Mr. A.P. Setia, Advocate.

For the respondents:-

Ms. Shruti Jain, Addl. A.G., Haryana.
Mr. Himanshu Aggarwal, Advocate for
Mr. S.K. Nehra, Advocate.
Mr. Shalender Mohan, Advocate
Mr. Puneet Bali, Sr. Advocate with
Mr. Vibhav Jain, Advocate

C.M. No. 13875-2019 in CWP No. 31702-2018

The present application seeking impleading of applicants as respondent Nos. 4 and 5 is allowed and the applicants are impleaded as respondent No. 4 and 5 in the present petition

C.M.13876-2019 in CWP No. 31702-2018

Application is allowed as prayed for.

Accordingly, written statement filed on behalf of the applicants/respondents is taken on record.

C.W.P No. 31702-2018 and 56 connected matters

This order shall dispose of above 56 petitions whereby the petitioners are seeking writ of certiorari for quashing the action of the respondent-Commission for not considering the candidature of the petitioners for having the qualification of Shiksha Shastri as eligible for the post of PGT Sanskrit and further seeking quashing of impugned notice/announcement dated 9.12.2018 (Annexure P-10) by which they had not been called for interview for the post of PGT Sanskrit against the advertisement no.4/2015 dated 28.6.2015 category no.16 (Annexure P-1). However, for the facility of reference, the facts are being taken from CWP No. 31702-2018.

The respondent-Haryana Staff Selection Commission, Panchkula invited the applications for 626 posts of PGT Sanskrit vide advertisement dated 28.6.2015. Out of total 626 posts, 269 posts were for general category. The educational qualifications and eligibility prescribed for the post as per advertisement is as under:-

- i) *M.A Sanskrit with at least 50% marks and B.Ed from recognized University”*
Eligibility
(a) Matric with Hindi/Sanskrit or 10+2/B.A/M.A with Hindi as one of the subject; And
(b) Certificate of having qualified Haryana Teacher Eligibility Test (HTET) School Teachers Eligibility Test (STET)

Note: The candidates those who are having/passed HTET till the date of interview
(c) Consistent good academic record

Petitioners were having the qualification of matric with Hindi, 10+2, B.A. and M.A in Sanskrit with more than 50% marks and Shiksha Shastri (B.Ed) from recognized university/institution like Rashtriya Sanskrit Sansthan, New Delhi, Janak Pur D-Block, New Delhi, Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeeth Katwariya Sarai, New Delhi and Kurukshetra University, Kurukshetra. The petitioners have qualified the Haryana Teacher Eligibility Test in the subject area of Sanskrit and copies of the educational certificates of some of the petitioners of their Shiksha Shastri (B.Ed) have been placed on record as Annexure P-2 (Colly). Petitioners submitted the application form for the post of PGT Sanskrit. Finding them eligible for the post, the Haryana Staff Selection Commission had issued the admit card to the petitioners for participating in the selection process for the above said post. One of such admit card issued to petitioner no.4-Rinku Sharma is attached with the writ petition as Annexure P-3. Pursuant to the notice dated 24.5.2016 (Annexure P-4), petitioners appeared in the written test held on 15.6.2016. After uploading the answer key and the revised answer key, the result was uploaded on the website on 6.2.2017 (Annexure P-5). Pursuant to the result, petitioners were called for scrutiny of the documents held on 17.4.2017 to 20.4.2017 for the above said posts and no objection was raised with regard to their documents.

Thereafter Haryana Govt. issued the notification dated 23.6.2017 (Annexure P-6). Vide this notification, qualification for the post of PGT Sanskrit was changed and in this notification, the qualification of

Shiksha Shastri was included in the prescribed qualification and not Shiksha Shastri (B.Ed). Subsequently, a notice was again issued on 12.9.2018 (Annexure P-7) to the candidates for scrutiny of the documents who were earlier ineligible due to not having HTET or any other reason or were absent in scrutiny of documents earlier held on 17.4.2017 and 20.4.2017. However, the candidates having the qualification of Shiksha Shastri (B.Ed) were not called for second scrutiny of the documents. Thereafter again notice dated 18.9.2018 was issued to some candidates but roll numbers of the petitioners were not there, therefore, they did not appear for the document verification held from 24.9.2018 to 25.9.2018. Thereafter, notice dated 30.9.2018 (Annexure P-8) was issued calling all the eligible candidates for the interview and the roll number of the petitioners was mentioned in this list of candidates. However, the respondent-Commission postponed the said interview vide notice dated 11.10.2018 (Annexure P-9). A fresh notice dated 9.12.2018 (Annexure P-10) was issued for calling the candidates for interview to be conducted on 15.12.2018 and 16.12.2018 for the said post of PGT Sanskrit. However, in the said notice, the roll numbers of the petitioners were not figured in the list of the candidates called for interview. The grievance of the petitioners was that once in the notification dated 23.6.2017 (Annexure P-6), qualification of Shiksha Shastri B.Ed was considered eligible, the qualification of Shiksha Shastri (B.Ed) could not be deleted to make the candidates ineligible for the above said post and hence the present petition.

On 14.12.2018, notice of motion was issued. A direction was issued to the Commission to provisionally interview the petitioners. The petitioners had placed on record a letter dated 14.10.2018 (Annexure P-15)

whereby a clarification has been given by the Kurukshetra University, Kurukshetra to the Director School Education Haryana that the degree of B.Ed awarded by the Kurukshetra University is equivalent to Shiksha Shastri examination of other Universities. An attempt was made by the Counsel for the State to clarify that the Kurukshetra University was offering two courses i.e one is B.Ed in Siksha Shastri and another B.Ed in Sanskrit with different syllabi.

Division Bench of this Court in the case of ***Deepak Sharma and others vs. State of Haryana and others in CWP No.24595 of 2015*** on **5.8.2016** while examining the similar issue had given direction to constitute an Experts Committee comprising renowned Sanskrit scholars other than the 'Professors' or 'Heads' of Sanskrit Departments of State run Universities as they can be the best impartial Arbiters to compare the curriculum and determine the standards of Degrees in question vis-a-vis the level of Sanskrit education in State Universities. The team of Experts, if constituted would keep in view the fact that NCTE has recommended the qualification of MA in the subject concerned as also 'equivalent' thereto as a valid qualification. The report of the Expert Committee was accepted by the State Government and thereafter, the amendment was made by notification dated 23.6.2017 as under:

“(i) M.A Sanskrit/Acharya with at least 50% marks and B.Ed./Shiksha Shastri/Language Teachers Course (L.T.C)/Oriental Training (O.T) in Sanskrit from a recognized university or conducted by the Haryana Education Department or an equivalent qualification recognized by Haryana education Department.”

Pursuant to the order dated 5.8.2016 passed in CWP No. 24595 of 2015 in ***Deepak Sharma's case (supra)***, Expert Committee report has been accepted by the State Government and the amendment carried out shows that the qualification of Acharya and Shiksha Shastri has not been treated as equivalent, but has been treated as same.

The object of constituting an Expert Committee was that the candidates, who have the same qualification of Shiksha Shastri should get the benefit and participate in the selection process. Judgment in ***Deepak Sharma's case (supra)*** has attained finality. After the amendment, stand of the respondents that this will be applicable to the next selection process, shall be examined keeping in view the report of the Expert Committee.

Ms. Shruti Jain, learned Counsel for the State has argued that this very amendment came for consideration before the Division Bench of this Court in ***Sunita Rani vs. State of Haryana and others, CWP No.30805 of 2018 (decided on 19.12.2018)*** and it was claimed that benefit of this amendment should be given to the pending selection process as well. However, this writ petition was disposed of by observing that the amendment was to be made applicable prospectively and cannot be applied retrospectively.

Counsel for the State further argued that the benefit of amended qualification will be given in the next selection process. On 15.1.2019, the State was directed to produce the report of the Expert Committee which was given pursuant to Division Bench judgment in ***Deepak Sharma's*** case (supra) on 5.8.2016. Thereafter a short reply dated 11.3.2019 was filed. However, pursuant to the order dated 15.1.2019, the State did not produce the Expert Committee report and thereafter on 16.5.2019 when the report

was not produced before this Court, a direction was given to the State to file a specific affidavit to the effect that in compliance of the order dated 5.8.2016 passed in **CWP No.24595 of 2015** in **Deepak Sharma's** case, no expert committee has been constituted and Department had straightway amended the Rules. Thereafter an affidavit of the Director General Secondary Education Haryana has been filed stating that pursuant to the order passed by the Division Bench in **CWP No. 24595 of 2015** dated 5.8.2016, the government has decided to consider the qualification of Acharya, Shastri and Shiksha Shastri equivalent of MA Sanskrit, BA and B.Ed respectively and no expert committee was constituted.

A perusal of the official file shows that Government of India vide letters dated 12.08.1971, 09.08.1996 and 15.10.2013 (Flag 'L') has recognized the qualification of Acharya, Shastri and Shiksha Shastri equivalent to the qualification of M.A., B.A., and B.Ed qualifications. Similarly, the Haryana Government, vide letter dated 02.09.1974 and 30.04.1998 (Glag 'M') has recognized the above mentioned qualifications accordingly. The U.T. Administration, vide its notification dated 13.07.1992 (Glag 'N') has considered the qualification of Shiksha Shastri (OT Sanskrit) or its equivalent qualification at par with B.T./B.Ed qualifications. Even, the UGC, vide notification dated 05/11.07.2014 (Flag 'O'), has considered the qualification of Acharya, Shastri and Shiksha Shastri equivalent to Master, Bachelor and B.Ed Qualification respectively.

It has been further observed that ever since, the letter dated 12.08.1971 was reaffirmed on 30.04.1998, the State of Haryana has recognized the qualification of Acharya, Shastri and Shiksha Shastri equivalent to the qualification of M.A., B.A. And B.Ed. Respectively and

these letters havenever been withdrawn.

Mr. Rajiv Atma Ram, learned senior Counsel, states that after 2012 Rules came into force, 700 candidates were appointed in the year 2013, who were having the degree of Shiksha Shastri, by treating them equvalent to B.Ed. As per new Rules of 2012, benefit of these instructions was extended to the appointments made in the year 2013.

On a specific query put to learned State counsel as to whether, benefit of instructions dated 02.09.1974 and 30.04.1998 was given to all the selection processes till the amendment of Rules was made in the year 2012, she seeks time to file an affidavit.

With respect to all the candidates, who were provisionally interviewed pursuant to the order passed by this Court and have passed the HTET examination with the degree of Shiksha Shastri, respondent-State will also clarify as to how they were treated eligible for participating in the HTET examination for the post of PGT (Sanskrit).

Pursuant to order dated 15.07.2019, an affidavit of Harcharan Singh, Joint Director Co-ordination-II office of Director Secondary Education Haryana, Panchkula dated 17.10.2019 has been filed today in the Court and the same is taken on record. Along with this affidavit, instructions dated 02.11.1999 (R-I) has been placed on record regarding recognition/equivalence of various degrees/diplomas certificate etc. awarded by different institutions. The committee in its meeting dated 02.11.1999 decided as under:-

(i) That the degrees/diplomas/certificates/examinations recognized by the Kurukshetra University Kurukshetra, Maharishi Dayanand University, Rohtak, Guru Jambeheshwar University, Hisar, Haryana Agriculture University, Hisar,

N.D.R.I, Karnal, Board of School Education Haryana Bhiwani, State Board of Technical Education Haryana would stand recognized in State of Haryana for admission and recruitment purposes.

(ii) The Teacher Training Courses by the National Council of Teacher Education (NCTE), New Delhi would also stand recognized in the State of Haryana for the purposes.

(iii) All examinations of Foreign Universities/Boards/Examinations Bodies which have been recognized by Association of India Universities and the University Grant Commission (UGC) New Delhi be recognized.

(iv) The medical qualifications of all Statutory Institutes/Universities recognized by the Medical Council of India be recognized. The L.L.B Degree of Statutory Institutes/Universities recognized by the Bar Council of India be recognized. The Diploma in Pharmacy course conducted by the Board of technical education and universities in India recognized by Pharmacy Council of India be recognized. Technical Degrees/diplomas recognized by All India Council of Technical Education would also be recognized, if the examination is conducted by the approved University/Board.

(v) While imparting recognition/equivalence to any examination in the State of Haryana for the purpose of admission/equivalence, the opinion of the State Universities, School Education Board or the Technical Education Board as the case may be would be sought."

This highlighted that pursuant to instruction dated 02.11.1999, instructions dated 12.08.1971 and 30.04.1998 have been superseded .

In para No. 4 of the above affidavit, it is stated that Haryana State School Education (Lecturer School Cadre) (Group C) Service Rules were notified on 01.12.1998. In these Rules, the academic qualification for the post of Lecturer now PGT was shown as Post Graduation in the relevant subject with at least 50% marks from recognized University. Thereafter,

"Haryana State Education School Cadre (Group B) Service Rules, 2012" were notified on 11.04.2012 in the Haryana Government Gazette (Extra Ordinary). In these Rules, the qualification for the post of PGT has been prescribed as Post Graduation in the relevant subject with at least 50% marks and B. Ed from recognized University along with certificate of Haryana Teacher Eligibility Test (HTET)/ School Teacher Eligibility Test (STET) and consistent good academic records. The qualification of B.Ed and HTET was added and was not there in the service Rules of 1998. Thereafter, the department sent a requisition to the Haryana School Teacher Selection Board of 14870 post of PGTs of various subjects meant for direct quota. Thereafter keeping in view that qualification of B.Ed and HTET has been added, an amendment was made on 02.07.2012 and in case of direct recruitment, the teachers working in privately managed Government aided, recognized and Government schools, were exempted from having qualifications of HTET or STET and B.Ed as described in column No. 3, if they have worked as a teacher for a minimum period of four years on the date of enforcement of these Rules. However, such persons have to qualify the HTET and B.Ed by 01.04.2015 which was extended up to 01.04.2018 and now up to 01.04.2022.

Further in para No. 6 of the affidavit, it has been submitted that 700 candidates were appointed in the year 2013 who were having the degree of Shiksha Shastri, by treating them equivalent to B.Ed., which is not correct. The Haryana School Teacher Selection Board advertised 14870 posts of PGTs in different subjects in the year 2012 and the persons who were having the qualification as per Service Rules 1998 were given a one time exemption in the first recruitment made after the notification of Service

Rules, 2012. 700 candidates mentioned by the petitioners were not appointed by giving the benefit of instruction dated 12.08.1971 and 30.04.1998 rather they were given one time exemption as per amendment dated 02.07.2012 (R-II). The clause 2, 3 and 4 of this amendment reads as under:-

"2. In the Haryana State Education School Cadre (Group B) Service Rules, 2012 (herein after called the said Rules) after rule 19, the following rule shall be inserted namely:-

"19 A. Transitional provision:- The person fulfilling the conditions enunciated under note (i) or (ii) (a) of Appendix B to these rules and possess the qualifications under column 3 mentioned against the respective posts in the Haryana State Lecturer School Cadre (Group C) Service Rules, 1998, shall also be eligible for recruitment as a one time measure.

Provided that such person shall have to qualify the Haryana Teachers Eligibility Test (HTET) and B.Ed by 1st April, 2015 and if he fails to do so, his appointment shall stand terminated automatically without giving any further notice."

3. In the said rules, in Appendix B for note (i), the following note shall be substituted, namely;

"(i) That in case of direct recruitment, the teachers working in privately managed Government aided, recognized and Government schools, are exempted from having qualifications of HTET or STET and B.Ed as described in column 3, if they have worked as a teacher for a minimum period of four years on the date of enforcement of these Rules."

4. In the said rules, in Appendix B, for note (ii), the following note shall be substituted namely;-

(ii) (a) A person who has passed Haryana Teachers Eligibility Test (HTET) without the qualification of B.Ed, before the notification of these rules, shall also be considered eligible for the post of PGT in the case of direct recruitment as one time measure in the first recruitment to be held after amendment of

these Rules.

(b) The condition of 'Consistent Good Academic Record' wherever appearing in Appendix B, under column 3 of these rules shall not be made applicable during the first recruitment made under these rules, in the case of candidates eligible under note (i) or (ii) (a)"

Ms. Shruti Jain while referring to affidavit states that keeping in view the amendment dated 02.07.2012 (R-II) no benefit was extended to candidates having Shiksha Shastri/B.Ed as candidates having qualification of M.A in Sanskrit as per Service Rules 1998 were considered to be eligible and 700 candidates selected were not given the benefit of instruction dated 12.08.1971 and 30.04.1998 rather they were given one time exemption, even though they had the Shiksha Shastri/B.Ed qualification. Learned State counsel submits that keeping in view judgment in the case of ***Sunita Rani vs. State of Haryana and others, passed in CWP No. 30805-2018, decided on 19.12.2018***, the State is not bound to treat the petitioners who are having qualification of Shiksha Shastri/B.Ed as equivalent to B.Ed qualification as per amendment made in the year 2017 for the post of PGT Sanskrit.

The benefit of amendment made in the year 2017 has to be given prospectively in the next selection process and with respect to advertisement (P-6) of the year 2015, the candidates cannot be treated to be eligible having the qualification of Shiksha Shastri (B.Ed)

On the other hand, Mr. Rajiv Atma Ram, learned senior counsel has vehemently argued that as per School Cadre (Group C) Service Rules, 1998 for the post of Middle School Headmaster, 05 years experience as master having the qualification of BA/B.Sc/B.Com and B.T/B.Ed in regular capacity is required for promotion and for the post of Sanskrit teacher,

Shastri/B.A (Hon's in Sanskrit) from recognized University; (ii) L.T.C/O.T in Sanskrit conducted by the Haryana Education Department or an equivalent qualification by the Haryana Education Department OR BT/B.Ed with Sanskrit as teaching subject from a recognized University.

As per above said Rule, the State Government is treating qualification of Shiksha Shastri (B.Ed) equivalent of B.Ed and they have not rejected the candidates having Shiksha Shastri (B.Ed) as ineligible. He has argued that as per letters dated 12.08.1971, 09.08.1996 and 15.10.2013 (Flag L) issued by Government of India, the qualification of Acharya, Shastri and Shiksha Shastri equivalent to the qualification of M.A, B.A, B.Ed qualifications. Similarly, the Haryana Government vide letter dated 02.09.1974 and 30.04.1998 (Flag M) has recognized the above mentioned qualifications. The U.T administration vide notification dated 13.07.1992 has considered the qualification of Shiksha Shastri (OT Sanskrit) or its equivalent at par with B.T/B.Ed qualifications. The UGC vide notification dated 05/11.07.2014 has considered the qualification of Shiksha Shastri equivalent to Master Bachelor and Bachelor qualification respectively.

Once State is treating these qualification as equivalent for the purpose of recruitment for the post of Head Master and Sanskrit teacher, the present petitioners are entitled to same treatment as per amended Rules of 2012. Learned counsel has submitted that while dismissing the review application on 27.03.2019, the Division Bench of this Court in ***Sunita Rani's case (supra)*** had observed that there was no material before the Court that at any stage the Government of Haryana had given benefit of equivalence to these two qualifications. In the absence of any evidence, the review application was dismissed. However, keeping in view the instructions as referred above, the candidates cannot be denied benefit

simply on the ground that one time exemption was given to the candidates who are eligible as per Service Rules of 1998.

Mr . Rajiv Atma Ram, learned senior counsel for the petitioners has referred to judgment of this Court in a case of ***Ajit Sen vs. State of Haryana and others, passed in C.W.P No. 1681-2002, decided on 17.09.2004*** wherein respondents denied the petitioner promotion to the post of HeadMaster on the ground that he did not possess the requisite qualification of B.Ed. The petitioner was appointed as Sanskrit Teacher on ad hoc basis and his services were thereafter regularized. Prior to his appointment, the petitioner possessed the qualification of Shastri, B.A, Shiksha Shastri (B.Ed), M.A and M.Ed. However, the writ petition was allowed and the operative part of the judgment reads as under:-

"A perusal of the circular (Annexure P-5) reveals that the Government unequivocally declared the qualification of Shiksha Shastri as being equivalent to that of B.Ed. The said circular does not place any limitation on the declaration of equivalence. It does not state that the aforementioned degree would be deemed to be equivalent to the qualification of B.Ed for the purpose of recruitment alone and not for the purpose of promotion. A perusal of the written statement reveals that the stand taken by the respondents that the qualification of Shiksha Shastri conferred by the Rashtriya Saresktri Sansthan New Delhi, is equivalent to B.Ed for the purpose of recruitment alone and not for the purpose of promotion to the post of HeadMaster is not supported by any circular, Rule or Regulation. The respondents have not been able to refer to any Rule Instructions or Regulations that would enable us to arrive at a conclusion that the declaration of equivalence contained in Annexure P-5 was in any way limited to recruitment and not apply to promotions. There is no warrant for the proposition that the declaration of equivalence is one time benefit available at the stage of recruitment alone and does not ensure for the benefit of a candidate at the time of promotion. Such an interpretation of the circular (Annexure P-5) would be incomprehensible and arbitrary.

Once an employee has been selected on the ground that qualification is equivalent to the basic qualification prescribed, he is deemed to possess the prescribed qualification."

Mr. Atma Ram, learned senior counsel has further referred to judgment of this Court in a case of ***Satish Kumar v. State of Haryana and others, passed in C.W.P No. 17558-1999, decided on 07.05.2012*** wherein despite the selection of the petitioner for the post of Lecturer in History (School Cadre), he was not issued appointment letter on the ground that he has passed his M.A (History) from the Rajasthan Vidyapeeth, Udaipur which is not recognized by the Haryana Government. The writ petition was allowed and the operative part of the judgment reads as under:-

"The aspect with regard to the validity and recognition of degrees/diplomas issued by the Rajasthan Vidyapeeth, Udaipur has been duly considered by the Division Bench of this Court in Manoj Kumar's case (supra), wherein it has been held as follows:-

" The only question which requires consideration by this Court is whether the diploma certificate obtained by the petitioner from a deemed university would be considered as requisite qualification for appointment to the post of Multipurpose Health worker or the respondents could be permitted derecognize it declaring the petitioner as ineligible. Admittedly, he has acquired the qualification from a deemed university which is recognized by the University Grants Commission. The notification issued by the University Grants Commission dated 19.8.2003 (Annexure P-12) shows that Rajasthan Vidya Peeth is declared as a deemed university. The aforementioned notification which also deals with the changes made in the name of Rajasthan Vidya Peeth reads as under:

" Rajasthan Vidya Peeth Udaipur was granted Deemed to be University status under the provisions of Section 3 of the University Grants Commission Act, 1956 (3 of 1956) vide his Ministry's notification no. F.9-5/84 -U.3 dated January 12,1987.

The Central Govt. on the request of the Rajasthan Vidya Peeth and on the advice of the University Grants Commission hereby declare that the name of the Rajasthan Vidyapeeth, Udaipur is changed to Janardan Rai Nagar Rajasthan Vidyapeeth, Udaipur, Rajasthan with immediate effect."

According to the instructions issued by the respondent-State on

18.3.1975 (Annexure P.6) all those degrees and diplomas which have been awarded by the recognized Universities and by the Boards established by the State Government for High/Higher Secondary, were ipso facto recognized . It has further been provided that those degrees and diplomas which are recognized by Govt. of India are deemed to be recognized by the Government of Haryana. The afore-mentioned instructions have been reiterated again by another set of instructions issued on 2.11.1999 by the Financial Commissioner and Secretary to Government, Haryana, Education Department. Those instructions have been placed on record in a connected writ petition namely CWP No. 12187 of 2006 as Annexure P.18. Even otherwise we find that once the University Grant Commission has accepted the qualification which is recognized as a deemed University then it would not be within the competence of respondent-State to refuse recognition of such qualification. This question has repeatedly been considered by Hon'ble the Supreme Court in numerous judgments. In the case of University of Delhi v. Raj Singh AIR 1995 SC 336 certain qualifications for appointment of Lecturer were laid down by the University Grants Commission by the University Grants Commission (Qualifications required of a person for appointment to the teaching Staff of a University and Institutions affiliated to it), Regulations 1991. The University of Delhi refused to accept those regulations as binding by arguing that various provisions of Delhi University Act, 1922 grant them autonomy. The Hon'ble Supreme Court while interpreting Section 3 of the University Grants Commission Act, 1956 alongwith Sections 12 A(2) and Section 26(1)(c) came to the conclusion that the regulations were binding on the University. The conflict which was sought to be brought before Hon'ble the Supreme Court by arguing that the Delhi University Act has granted complete autonomy to them has been resolved by referring to entry 66 in List I of Seventh Schedule.

On the basis of principle as well as precedent mentioned above, it must be concluded that a diploma certificate issued by a deemed university like Rajasthan Vidya Peeth has to be held as valid because the University Grant Commission vide its notification dated 19.8.2003 has conferred upon Rajasthan Vidya Peeth, Udaipur, the status of deemed University under Section 3 of the 1956 Act. Once it is so, then the respondent-state or any of its agencies cannot be permitted to de-recognize such degree or diploma, because such an action on their part would be repugnant to the provisions of Article 254 of the Constitution of India. **In view of the above, the contention of the respondents that the degree obtained by the petitioner from the Rajasthan Vidyapeeth, Udaipur is not recognized**

by the State of Haryana, cannot be accepted. It would not be out of way to mention here that the instructions issued by the Government of Haryana dated 18.03.1975 contain the decision of the Government regarding recognition for various qualifications for appointment. The contents thereof read as follows:-

“ It is informed by inviting your attention on the subject noted above that the Government had been considering to change in the present policy or recognizing various qualifications. Now the Government has taken following decisions:-

- 1. The degree and diplomas etc. Recognized by the Government of India, shall be recognized by the Government of Haryana.*
- 2. The degrees and diplomas etc. issued by the recognized Universities and High/Higher Secondary Board established by the State shall be recognized ipso facto.*
- 3. Besides it, if any reference has been received from some other State Government regarding rest of degrees/diplomas, that shall be inspected and these diplomas/degrees etc. shall be recognized only on reciprocal basis.*
- 4. Besides it, requests for granting recognition are being made from some such institutions which do not fall in any of the three categories and these institutions are mainly being run in the subject of music and art etc and some have already been recognized. No general policy can be made regarding degrees/diplomas given by these institutions. If there is any such request, it can be considered on the merits.*

In the above decisions, Universities shall be meant such recognized Universities which:-

- 1. have been incorporated by the law in any State of India;*
- 2. In the case of certificate, diplomas and degrees conferred as a result of examinations held before 15th August, 1947, Punjab, Sind or Dacca Universities.*
- 3. any other University which is declared by the Government to be recognized. But if the State Government derecognizes or derecognized even any degree of any University, that degree shall not be deemed to be recognized until the Government does not take an independent decision about it. If any department of other state awards such certificates/diploma, on the basis of any kind of examination, which makes one eligible for appointments and it requests for giving recognition to that certificate/diploma for the purpose of appointments in Haryana State, then concerned department shall compare the period, eligibility and syllabus etc. of such degree of other State with the degree used by our State.*

Thereafter, if it comes to be conclusion that there is no objection in granting recognition on reciprocal basis, to the degree of other State equivalent to such degree, if may make due recommendations to the Education Department so that necessary action may be taken on it.”

A perusal of the above would show the degrees and diplomas recognized by the Government of India would itself confer recognition on them by the Government of Haryana. Similarly, the degrees and diplomas etc. issued by the recognized Universities shall be recognized ipso facto. Universities have been defined to mean such recognized Universities which have been incorporated by law in any State of India and any other University, which is declared by the Government to be recognized. In the light of the Division Bench judgment of this Court in the case of Manoj Kumar (supra), Rajasthan Vidyapeeth, Udaipur would be a University recognized by the Government of Haryana. The degrees issued by a University recognizing the said degree of that University has to be taken by the Government. It is not in dispute that till date, no such decision has been taken by the State of Haryana specifically de-recognizing the degree of M.A. History issued by the Rajasthan Vidyapeeth, Udaipur. It is also not disputed by the respondents that the degree of M.A. History obtained from Rajasthan Vidyapeeth, Udaipur is recognized by the Central Government. If that be so, then in the light of the instructions dated 18.03.1975 Clause-1, this degree stands recognized by the Government of Haryana. The decision of the respondents in not issuing the appointment letter to the petitioner to the post of Lecturer in History on the ground that the petitioner has obtained degree in M.A. History from Rajasthan Vidyapeeth, Udaipur, cannot sustain and deserves to be quashed.

Mr. Rajiv Atma Ram, learned senior counsel has argued that once as per instructions dated 02.11.1999 (R-II), the State Government has taken a conscious decision to recognize degrees/diploma awarded by different institutions, the petitioners cannot be held to be ineligible for not having the qualification of B.Ed. Their qualification of Shiksha Shastri (B.Ed) makes them eligible for the post of PGT (Sanskrit) as per 2012 rules.

Mr. Puneet Bali, learned senior counsel for the respondent has argued that 2012 Rules came up for consideration before this Court in **Vikas**

Sharma vs. State of Haryana and others, passed in CWP No. 19263-2012,

decided on 20.01.2014 wherein candidates applied for the post of PGT, Sanskrit and they were apprehending that their candidature will be rejected as they do not possess M.A Degree in Sanskrit. Petitioners have passed their Acharya Degree from Kurukshetra University, Sampurnanand Sanskrit University, Varanasi. Their claim was based upon **CWP No. 6686-1996 titled as Ravinder Kumar vs. State of Haryana, decided on 24.01.1996**, where Acharya degree passed from the KUK has been held to be equivalent to M.A in Sanskrit on the basis of the Government of India letter dated 23.01.1964 as also the judgment of Hon'ble the Supreme Court of India in **Rampalit Vyakaran Acharya and others vs. Panjab University and another, 1976 (3) SCC 2**. The writ petition was dismissed on the ground that there is no question of treating an equivalent qualification when there is no such discretion provided for under the Statutory Rules. The qualification under the Statutory Rules being clear and specific i.e M.A Sanskrit with at least 50% marks, the Court cannot import such a condition/qualification which would make the candidate possessing an equivalent degree eligible for appointment when the statutory rules do not permit so. The letter dated 21.11.1990 issued by the department of the Central Government which is not *ipso facto* applicable. There is no decision of the State of Haryana adopting the said letter. This Court relied upon the judgment of the Full Bench of this Court in **Som Dutt vs. State of Haryana and another, 1983 (3) SLR 141** wherein it has been held that it is the prerogative of the employer to provide for the qualifications for appointment to the post and it can insist upon the qualifications so prescribed under the statutory rules. If no equivalence clause has been provided under the Rules and the qualifications are clear and specific, the equivalence or otherwise of the qualification possessed by

a candidate cannot be taken into account.

Mr. Puneet Bali, learned senior counsel for the respondents has further argued that Kurukshetra University who was a party in **Vikas Sharma's case (supra)** did not state anywhere that any decision has been taken by the Kurukshetra University to declare Acharya degree equivalent to M.A. (Sanskrit). Even LPA No. 1121-2014 filed against order dated 20.01.2014 has been dismissed by a Division Bench of this Court on 10.09.2014. Learned senior counsel contends that once the issue with regard to equivalence with respect to 2012 Rules had been decided and attained finality, the present writ petition deserves to be dismissed. The petitioners do not possess the qualification of 2012 which is essential qualification as per 2012 Rules and there is no provision for equivalence in the Rules that Shiksha Shastri degree is equivalent to B.Ed.

Mr. Puneet Bali, learned senior counsel for the respondents submits that pursuant to the direction given by this Court on 05.08.2016 in CWP No. 24595-2015 titled as **Deepak Sharma and others vs. State of Haryana and others**, the 2012 Service Rules have been amended in the year 2017 whereby qualification of Shiksha Shastri has been made equivalent to B.Ed qualification. Thereafter, the Division Bench of this Court in a case of **Sunita Rani vs State of Haryana and others, passed in CWP No. 30805-2018, decided on 19.12.2018** had considered a case for considering the provision of equivalence of qualification of M.A (Sanskrit)/Acharyan and B.Ed/Shiksha Shastri/Language Teachers Course(L.T.C)/ Oriental Training (O.T). The writ petition was disposed of and the submission made by learned counsel for the petitioners that the insertion of the word "substituted" in the amendment should necessarily mean retrospectively,

was held to be not correct in view of judgment of Hon'ble the Apex Court in

a case of ***Gottumukkala Venkata Krishnamraju vs. Union of India and others, 2018 LawSuit (SC) 866***. Even the review application filed against the said judgment was dismissed.

Learned senior counsel for the respondent has argued that once the Division Bench of this Court in ***Sunita Rani's case (supra)*** has held that the Rules which have been amended will be prospective in nature, the petitioners in the present petitions in no circumstances can be treated to be eligible having the qualification of Shiksha Shastri.

Learned senior counsel for the respondent has further referred to Full Bench Judgment of this Court in a case of ***Amardeep Singh Sahota vs. State of Punjab, 1993 (4) SCT 328*** to contend that the writ petition challenging the selection is not maintainable unless the selected candidates are made party to the petition.

Mr. Shalender Mohan, learned counsel for the respondent has argued that petitioners cannot get any benefit of circular dated 02.09.1974 whereby Shiksha Shastri was treated as equivalent to B.Ed qualification as instructions dated 02.09.1974 have been withdrawn vide instruction dated 26.07.1975 and decision has been taken that Shiksha Shastri course not be considered to be equivalent to O.T (Sanskrit) of Haryana.

Reference has been further made to instruction dated 21.01.1997 whereby Director Secondary Education Haryana has written to District Education Officer, Ambala regarding recognition of Education Degree Shastri (B.Ed) by Rashtriya Sansthan, Delhi. It has been informed that Education Degree Shiksha Shastri (B.Ed) provided by Rashtriya Sansthan, New Delhi is not considered equivalent to B.A B.Ed in Haryana and the same is considered to be equivalent to O.T Sanskrit in State.

Mr. Shalender Mohan, learned counsel for the respondent has

referred to judgment of this Court in a case of ***Subhash Chander vs. State of Haryana and others, passed in CWP No. 2364-2014, decided on 07.02.2014*** wherein petitioners who were working as Principals, have been reverted to the post of Sanskrit Teachers from whereby they had been earlier promoted to the posts of HeadMaster/HeadMistress and thereafter as Principals. The writ petition was disposed of by giving direction to the respondents to not to give effect to the order dated 25.01.2014 for a period of two weeks.

Reference has been made to a judgment of this Court in a case of ***Bahadur Singh and another v. State of Haryana and others, passed in CWP No. 16674-2006, decided on 03.03.2008***. In this judgment the general directions were issued that the cases of all Sanskrit teachers working in the department, who possess equivalent qualification of B.T/B.Ed and have requisite experience for promotion to the posts of HeadMasters High School be considered. However, these general directions were set aside by Hon'ble the Supreme Court.

The review application in ***Bahadur Singh's case (supra)*** is still pending, as informed by Mr. Shalender Mohan, Advocate.

Mr. Shalender Mohan, learned counsel for the respondent has argued that once the instructions granting equivalence of Shiksha Shastri to B.Ed has been withdrawn, the petitioners are not eligible to participate for the post of PGT Sanskrit.

Heard learned counsel for the parties at length.

A bare perusal of the official file of the Education Department brought by learned State counsel in the Court shows that as per letter dated 09.08.1996 at page No. 247 regarding recognition of Examination conducted by Shri Lal Bahadur Shastri Sanskrit Vidyapeeth, New Delhi , a

decision was taken that the following examination examinations conducted by the Lal Bahadur Shastri Sanskrit Vidyapeeth, New Delhi be recognized as equivalent to various educational qualifications in general education set up ***for the purpose of employment under Central Government and for the admission to higher studies as under:-***

<i>Name of the Examination</i>	<i>Equivalent to</i>
1. <i>Shastri Samanita</i>	<i>B.A (Hons)</i>
2. <i>Shastri</i>	<i>B.A</i>
3. <i>Acharya</i>	<i>B.A</i>
4. <i>Shiksha Shastri</i>	<i>B.Ed</i>
5. <i>Shiksha Acharya</i>	<i>M.Ed</i>
6. <i>Vidya Varidhi</i>	<i>Phd.</i>

Similarly, the Haryana Government, vide letter dated 02.09.1974 and 30.04.1998 (Flag 'M') has recognized the above mentioned qualifications accordingly for the purpose of recruitment. The U.T. Administration, vide its notification dated 13.07.1992 (Flag 'N') has considered the qualification of Shiksha Shastri (OT Sanskrit) or its equivalent qualification at par with B.T./B.Ed qualifications for the purpose of recruitment. Thereafter, M.D University, Rohtak has written letters dated 18.10.2005, 27.10.2006, 23.05.2007, 17.01.2008 to Chandigarh Administration regarding recognition of Shiksha Shastri (O.T Sanskrit) course as equivalent to B.Ed examination for the purpose of higher studies. The official file further shows that keeping in view instructions dated 02.11.1999, the Kurukshetra University, Kurukshetra and Maharishi Dayanand University Rohtak were requested to intimate regarding the equivalence of the examination conducted by Shri. Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeeth, New Delhi. After the comments were received from the above Universities, it was proposed to treat 'Acharya'

qualification equivalent to 'M.A Sanskrit', 'Shastri' qualification equivalent to B.A Sanskrit and Shiksha Shastri/Language Teacher Course (L.T.C)/ Oriental Training (O.T) in Sanskrit conducted by the Haryana Government equivalent to B.Ed qualification. Therefore, these qualifications were considered at par with M.A Sanskrit, B.A Sanskrit and B.Ed qualification for the post of PGT Sanskrit and TGT Sanskrit. The amendments were proposed in the Service Rules 2012 mentioned at Sr. Nos. 1 to 4.

Thereafter, Kurukshetra University vide letter dated 14.10.2015 had informed the Director Secondary School Education Haryana regarding equivalence of courses/degrees of Shree Lal Bahadur Shastri Rastriya Sanskrit Vidyapeet, New Delhi. The following courses/degrees Lal Bahadur Shastri Rastriya Sanskrit Vidyapeet, New Delhi have so far been recognized, equivalent to the courses/degrees of this University, mentioned against each, for the purpose of higher studies.

Sr. No	Exams of other University	Exams KUK
1.	Acharya	Acharya
2.	Shiksha Shastri (B.Ed)	B.Ed
3.	Shastri (Three years) with the subject of English	For the purpose of admission in Post Graduate Course except P.G course in English at this University

Mr. Rajiv Atma Ram, learned senior counsel for the petitioners has submitted that in the review application No. 93-2014 in CWP No. 16674-2006 before the Division Bench in ***Bahadur Singh's case (supra)***, the stand taken by the respondents in its reply. ***In para No. 5 of the reply, it has been stated that the department has taken a decision that the degrees/diploma/certificates/examinations recognized by the Kurukshetra University, Kurukshetra, MDU, Rohtak, GBU, Hissar, HAU, Hissar, N.D.R.I Karnal, Board of School Education Haryana, Bhiwani; State***

Board of Technical Education Haryana would stand recognized in the State of Haryana for admission and recruitment purposes, as per letter dated 02.11.1999. Further in para No. 6, it has been stated that Kurukshetra University vide letter dated 25.06.2008 has informed that degree of Shiksha Shastri (B.Ed) of Rastriya Sanskrit Sansthan (Deemed University) New Delhi stands recognized as equivalent to B.Ed for the limited purpose of higher studies. Hence, Kurukshetra University has maintained its stand that even prior to Haryana State School Education (Lecturer School Cadre) (Group C) Service Rules which were notified on 01.12.1998 that qualification of Shiksha Shastri is equivalent to B.Ed.

After going through the official file of the department, before the issuance of instruction dated 02.11.1999, ***the State Government had taken a conscious decision vide instruction dated 30.04.1998 at page No. 249 of the file that all degrees given by Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeeth Katwariya Sarai, New Delhi of Shastri/Acharya Shiksha Shastri should be treated equivalent to B.A/B.Ed/ M.A for recruitment in the State.*** These instructions were issued by State of Haryana keeping in view the instructions issued by Central Government on 09.08.1996 which are at page No. 247 of the official file of the department. A perusal of instruction dated 09.08.1996 shows that qualification of Shiksha Shastri has been treated equivalent to B.Ed. Now the petitioners cannot be denied of the above instructions only on the sole ground that the instructions dated 02.09.1974 have been withdrawn on 26.07.1975 and 21.01.1997.

In 1998 Rules, there was no provision for equivalence. However, as per instruction dated 30.04.1998 issued by Haryana

Government read with instructions dated 02.11.1999, candidates having

degree of Shiksha Shastri (O.T) were considered equivalent or at par with B.Ed qualification. Hence till the amendment in the Rules in the year 2017, there was no provision in the Rules for equivalence of B.Ed degree. ***The Haryana Government issued notification dated 23.06.2017 whereby qualification for the post of PGT Sanskrit was changed and the qualification of Shiksha Shastri was included and not Shiksha Shastri (B.Ed). The B.Ed qualification is not the new qualification, it is part of Service Rules of 1998 as well. The State was following the Government instructions dated 30.04.1998 and 02.11.1999 and they were bound to give benefit of these instructions even after amendment of 2012 rules as in 1998 Rules, for the post of Middle School Headmaster, 05 years experience as master having the qualification of BA/B.Sc/B.Com and B.T/B.Ed in regular capacity is required for promotion and for the post of Sanskrit teacher, Shastri/B.A (Hon's in Sanskrit) from recognized University; (ii) L.T.C/O.T in Sanskrit conducted by the Haryana Education Department or an equivalent qualification by the Haryana Education Department OR BT/B.Ed with Sanskrit as teaching subject from a recognized University.***

Thus now the candidates cannot be rendered ineligible only on the ground that amended qualification of 2012 Rules did not mention that Shiksha Shastri (B.Ed) was equivalent to B.Ed. The official file further shows that U.T. Administration vide notification dated 30.07.1992 prescribed the following qualification for the post of TGT's (Sanskrit)

(i) Shastri with O.T Sanskrit/B.Ed or B.A B.Ed having Sanskrit as an elective Subject in B.A and teaching subject in B.Ed

M.D University has clarified vide its letters dated 18.10.2005.

27.10.2006, 23.05.2007, 17.01.2008 to Chandigarh Administration that

Shiksha Shastri with O.T will be treated equivalent to B.Ed for higher studies.

In ***Deepak Sharma's case (supra)***, this Court had examined this issue that candidates who had obtained degrees equivalent o M.A in Sanskrit from some of the renowned Institutions cannot be rendered ineligible for appiontment as Sanskrit Teacher. This Court observed that it is difficult to reconcile as of now as to how a candidate who has done Acharya from renowned Institutions can be rendered ineligible for appointment. This Court then gave direction to ***constitute an Experts Committee comprising renowned Sanskrit scholars other than the 'Professors' or 'Heads' of Sanskrit Departments of State run Universities as they can be the best impartial Arbiters to compare the curriculum and determine the standards of Degrees in question vis-a-vis the level of Sanskrit education in State Universities. The team of Experts, if constituted would keep in view the fact that NCTE has recommended the qualification of MA in the subject concerned as also 'equivalent' thereto as a valid qualification.***

The above writ petition was disposed of on 11.09.2017 as the prayer made in the petition stands answered by the State by accepting Group (B) M.A Sanskrit/Acharya B.Ed/Shiksha Shastri/Language Teachers Course (LTC)/O.T, Group C Shastri and Shiksha Shastri as equivalent to the qualifications prescribed under the Rules to enable the writ petitioners to the benefit of employment.

The amendment was carried out by the Haryana State vide notification dated 23.06.2017 after getting necessary information from Kurukshetra University and Maharishi Dayanand University. As per official

file, in the instructions issued by State of Haryana on 30.04.1998, a decision has been taken to treat the degree awarded by Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeeth Katwariya Sarai, New Delhi as equivalent to B.Ed and after 1998 Rules, general instructions dated 02.11.1999 were issued (R-1) regarding recognition/equivalence of various degrees/diplomas certificate etc. awarded by different institutions. The committee in its meeting dated 02.11.1999 decided as under:-

(i) That the degrees/diplomas/certificates/examinations recognized by the Kurukshetra University Kurukshetra, Maharishi Dayanand University, Rohtak, Guru Jambeheshwar University, Hisar, Haryana Agriculture University, Hisar, N.D.R.I, Karnal, Board of School Education Haryana Bhiwani, State Board of Technical Education Haryana would stand recognized in State of Haryana for admission and recruitment purposes.

(ii) The Teacher Training Courses by the National Council of Teacher Education (NCTE), New Delhi would also stand recognized in the State of Haryana for the purposes.

(iii) All examinations of Foreign Universities/Boards/Examinations Bodies which have been recognized by Association of India Universities and the University Grant Commission (UGC) New Delhi be recognized.

(iv) The medical qualifications of all Statutory Institutes/Universities recognized by the Medical Council of India be recognized. The L.L.B Degree of Statutory Institutes/Universities recognized by the Bar Council of India be recognized. The Diploma in Pharmacy course conducted by the Board of technical education and universities in India recognized by Pharmacy Council of India be recognized. Technical Degrees/diplomas recognized by All India Council of Technical Education would also be recognized, if the examination is conducted by the approved University/Board.

(v) While imparting recognition/equivalence to any

examination in the State of Haryana for the purpose of admission/equivalence, the opinion of the State Universities. School Education Board or the Technical Education Board as the case may be would be sought."

The benefit of the above instructions was extended for the purpose of admission and recruitment purposes. As per 1998 Rules, for the post of Headmaster and Sanskrit teacher, the qualification prescribed was B.Ed and as per above instruction dated 02.11.1999 read with instructions dated 30.04.1998, all the candidates having Shiksha Shastri were to be considered having done B.Ed for the above two posts and hence without making amendment in the 1998 Rules, the benefit of these instructions were extended to all the candidates who had done Shiksha Shastri. When the 2012 Rules were made for the post of PGT Sanskrit, the qualification prescribed was M.A Sanskrit with at least 50% marks and B.Ed from recognized University but the Haryana Government vide notification dated 23.06.2017 amended the qualification for the post of PGT Sanskrit which reads as under:-

(i) *M.A Sanskrit/Acharya with at least 50% marks and B.Ed/Shiksha Shastri/Language teachers Course (LTC)/Oriental Training (O.T) in Sanskrit from recognized University or conducted by the Haryana Education Department or an equivalent qualification recognized by Haryana Education Department."*

As per 2012 Rules, the candidates had a right to be given benefit of instructions dated 30.04.1998 and 02.11.1999 even if there was no provision of equivalence made in the Rules that qualification of Shiksha Shastri is equivalent to B.Ed. It is not the case of the respondents that after 2012 Rules, instructions dated 30.04.1998 and 02.11.1999 have been

withdrawn.

At this stage reference can be made to the judgment passed by this Court in *Ajit Singh's case (supra)* wherein promotion to the post of Head Master was denied to the petitioner on the ground that he did not possess the requisite qualification of B.Ed. Prior to his appointment, the petitioner possessed the qualification of Shastri, B.A, Shiksha Shastri (B.Ed), M.A and M.Ed. The writ petition was allowed in view of circular which revealed that the Government unequivocally declared the qualification of Shiksha Shastri as being equivalent to that of B.Ed.

Thus, the State Government has taken a stand that qualification of Shiksha Shastri is equivalent to B.Ed for the purpose of recruitment as per 1998 Rules. The above judgment has attained finality and now it does not lie in the mouth of the State to say that in the year 2012 in the absence of any equivalence clause, the qualification of Shiksha Shastri cannot be treated equivalent to B.Ed.

Now another point for consideration would be whether Shiksha Shastri certificate of petitioners done from recognized university/institution like Rashtriya Sanskrit Sansthan, New Delhi, Janak Pur D-Block, New Delhi, Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeeth Katwariya Sarai, New Delhi and Kurukshetra University, Kurukshetra can be considered to be from a recognized Institutes.

This aspect has been considered in *Satish Kumar's case (supra)* wherein despite the selection of the petitioner for the post of Lecturer in History (School Cadre), he was not issued appointment letter on the ground that he has passed his M.A (History) from the Rajasthan Vidyapeeth, Udaipur which is not recognized by the Haryana Government.

This writ petition was allowed and it was held that the contention of the respondents that the degree obtained by the petitioner from the Rajasthan Vidyapeeth, Udaipur is not recognized by the State of Haryana, cannot be accepted. It would not be out of way to mention here that the instructions issued by the Government of Haryana dated 18.03.1975 contain the decision of the Government regarding recognition for various qualifications for appointment. The writ petition was allowed and the petitioner was considered eligible to be appointed to the post of Lecturer (History).

Once the State has taken a stand that for the purpose of recruitment as per 1998 Rules, Shiksha Shastri was to be treated equivalent to B.Ed then even in the year 2013, if candidates were appointed having qualification of Shiksha Shastri they have to be treated as eligible as per amended Rules of 2012.

An affidavit of Harcharan Singh, Joint Director Co-ordination-II office of Director Secondary Education Haryana, Panchkula dated 17.10.2019 and in para No. 6, it has been stated 700 candidates were appointed in the year 2013 who were having the degree of Shiksha Shastri, by treating them equivalent to B.Ed but by not extending the benefit of instructions dated 30.04.1998 and 02.11.1999. These candidates were appointed after given a one time exemption in the first recruitment made after the notification of Service Rules, 2012. The stand of the State is contradictory, in view of the stand taken by them before this Court in ***Ajit Singh's case (supra)***. The 700 candidates have been appointed having the qualification of Shiksha Shastri by treating their qualification equivalent to B.Ed and not by giving them one time exemption as per amended Rules dated 23.06.2017.

The amendment was then carried out in the Rules keeping in view the various instructions issued from time to time. Thus once the State has taken a conscious decision vide instruction dated 30.04.1998 to treat the degrees awarded by Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeeth Katwariya Sarai, New Delhi as equivalent to B.Ed, thereafter, now the State cannot turn around and say that these qualifications were never recognized for the purpose of equivalence. The State now cannot deny to extend the benefit of instructions dated 30.04.1998, general instruction dated 02.11.1999 to the candidates who were eligible before the amendment of the 2012 Rules in the year 2017 simply on the ground that equivalent provision was not provided in 2012 Rules. The candidates who were having qualification of Shiksha Shastri were treated equivalent to B.Ed after 1998 Rules as well till the Rules were amended in the year 2013. The benefit of above instructions cannot be denied simply on the ground that even in 1998 and 2012 rules, there was no provision for equivalence to the qualification of B.Ed.

The question for consideration before this Court would be whether the amendment made in the year 2017 has to be taken prospectively or retrospectively.

This aspect has been considered by Hon'ble the Supreme Court in *Chanan Singh and another vs. Smt. Jai Kaur*, 1970 PLJ 260 was examining the provision of Punjab Pre-emption (Amendment) Act, 13 of 1964. Section 15 of the Act was substituted by Section 4 of the Amendment Act, 1960. According to the substituted section, right of pre-emption in respect of agricultural land and village immovable property was vested as under:-

“(1)

(2) Notwithstanding anything contained in sub-section (1) -

(a) Whether the sale is by a female of land or property to which she has succeeded through her father or brother or the sale in respect of such land or property is by the son of daughter of such female, after inheritance, the right of pre-emption shall vest,-

(i) If the sale is by such female, in her brother or brother's son;

(ii) If the sale is by the son or daughter of such female, in the mother's brother or the mother's brother's sons of the vendor or vendors;

By the Amendment Act, 1964, in the first paragraph of Section 15 (2) (b) between the words “such” and “female” the words “husband of the” were inserted. The result was that after the amendment the portion of clause (b) relevant for our purpose was to read as follows:

“FIRST, in the son or daughter of such husband of the female.”

The aforesaid amendment did not state that the amendment will be retrospective in nature. The Hon'ble Supreme Court has further held as under:-

“5. If the above discussion is kept in view there is no difficulty in attributing a retroactive intention to the legislature when the Amendment Act of 1964 was enacted. It is well settled that if a statute is curative or merely declares the previous law retroactive operation would be more rightly ascribed to it than the legislation which may prejudicially affect past rights and transactions. We are in entire agreement with the following view expressed in a recent full bench decision of the Punjab High Court in **Moti Ram v. Bakhwant Singh & Ors., I.L.R. 1968 (1) Punj. 104 at p.120,** in which a similar point came up for consideration:

“A close analysis of paragraphs (First) and (Secondly) of clause (b) of sub-section (2) of Section 15 before the amendment introduced by Punjab Act 13 of 1964 would demonstrate that a son of the husband of a female vendor though not born from her womb would be entitled to pre-empt, particularly when the husband's brother and even the son of the husband's brother of that female are accorded the right of pre-emption. To reiterate, the right of pre-emption is accorded manifestly on the principle of consanguinity, the property of the female vendor being that of her husband, and there is no reason why the step-son should be excluded and the nephew of the husband included. From this alone it must be inferred that the Legislature had intended to include a step-son and consequently

retrospective operation had to be given to the amending Act as such a construction appears to be in consonance and harmony with the purpose of the Act.”

Hon'ble the Supreme Court in *Zile Singh vs. State of Haryana*, 2005 (2) RCR (Civil) 744 was examining the amendment made in the Haryana Municipal Act, 1973, where under Section 13A (1) (c) was inserted by Haryana Acts 3 and 15 of 1994. By the above said amendment, a person having more than two children was disqualified from contesting election to Municipality or become member of Municipality. The Haryana Municipal (Amendment) Act, 1994 (Act No.3 of 1994) inserted Section 13A in Chapter III of the Principal Act is reproduced as Under:-

“13A. *Disqualification for membership.* - (1) A person shall be disqualified for being chosen as and for being a member of a municipality -

xxx xxx xxx

(c) if he has more than two living children:

Provided that a person having more than two children on or after the expiry of one year of the commencement of this Act, shall not be deemed to be disqualified.

xxx xxx xxx”

If, sub clause (c) along with proviso was to be implemented, then a person having more than two children on or after expiry of one year of commencement of the Act was not to be deemed disqualified. This amendment was faulty as interpretation of the above said amendment meant that a person would be ineligible only for a period of one year after expiry of the Act and would be qualified again after one year. In this backdrop, the second amendment was made on 04.10.1994 as under:-

“2. In the proviso to clause (c) of sub-section (1) of Section 13A of the Haryana Municipal Act, 1973 (hereinafter called the principal Act), for the word “after”, the word “upto” shall be substituted.”

The Second Amendment brought the text of the relevant part of Section 13A in conformity with the legislative intent, which prevailed behind the preceding amendment, that is, the First Amendment. After the Second Amendment on 04.10.1994, a person having more than two children on or upto the expiry of one year was given exemption from

disqualification. Hon'ble the Supreme Court held that the Second Amendment would operate retrospectively from the date of First Amendment and in giving such operation no mandate of any law or principle is violated. Else, the evil sought to be curbed continues to exist for some period, which was contrary to legislative intent. The Court is to deal with a provision while interpreting it to be either prospective or retrospective. In Para Nos.15, 16, 17 and 18, it was further observed as under:-

“15. Though retrospectivity is not to be presumed and rather there is presumption against retrospectivity, according to Craies (Statute Law, Seventh Edition), it is open for the legislature to enact laws having retrospective operation. This can be achieved by express enactment or by necessary implication from the language employed. If it is a necessary implication from the language employed that the legislature intended a particular section to have a retrospective operation, the Courts will give it such an operation. **In the absence of a retrospective operation having been expressly given, the Courts may be called upon to construe the provisions and answer the question whether the legislature had sufficiently expressed that intention giving the Statute retrospectivity. Four factors are suggested as relevant: (i) general scope and purview of the statute; (ii) the remedy sought to be applied; (iii) the former state of the law; and (iv) what it was the legislature contemplated (p.388). The rule against retrospectivity does not extend to protect from the effect of a repeal, a privilege which did not amount to accrued right (p.392).**

16. Where a Statute is passed for the purpose of supplying an obvious omission in a former statute or to 'explain' a former statute, the subsequent statute has relation back to the time when the prior Act was passed. The rule against retrospectivity is inapplicable to such legislations as are explanatory and declaratory in nature. The classic illustration is the case of *Att. Gen. Vs. Pougett* ([1816] 2 Price 381, 392). By a [Customs Act](#) of 1873

(53 Geo. 3, c. 33) a duty was imposed upon hides of 9s. 4d., but the Act omitted to state that it was to be 9s. 4d. per cwt., and to remedy this omission another [Customs Act](#) (53 Geo. 3, c. 105) was passed later in the same year. Between the passing of these two Acts some hides were exported, and it was contended that they were not liable to pay the duty of 9s. 4d. per cwt., but Thomson C.B., in giving judgment for the Attorney-General, said: "The duty in this instance was in fact imposed by the first Act, but the gross mistake of the omission of the weight for which the sum expressed was to have been payable occasioned the amendment made by the subsequent Act, but that had reference to the former statute as soon as it passed, and they must be taken together as if they were one and the same Act." (p.395).

17. Maxwell states in his work on Interpretation of Statutes, (Twelfth Edition) that the rule against retrospective operation is a presumption only, and as such it "may be overcome, not only by express words in the Act but also by circumstances sufficiently strong to displace it." (p.225). If the dominant intention of the legislature can be clearly and doubtlessly spelt out, the inhibition contained in the rule against perpetuity becomes of doubtful applicability as the "inhibition of the rule" is a matter of degree which would "vary secundum materiam" (p.226). Sometimes, where the sense of the statute demands it or where there has been an obvious mistake in drafting, a court will be prepared to substitute another word or phrase for that which actually appears in the text of the Act (p.231).

18. In a recent decision of this Court in *National Agricultural Cooperative Marketing Federation of India Ltd. And Another Vs. Union of India and Others*, (2003) 5 SCC 23, it has been held that there is no fixed formula for the expression of legislative intent to give retrospectively to an enactment. Every legislation whether prospective or retrospective has to be subjected to the question of legislative competence. The retrospectively is liable to be decided on a few touchstones such as : (i) the words used must expressly provide or clearly imply retrospective operation; (ii) the retrospectively must be reasonable and not excessive or harsh, otherwise it runs the risk of being struck down as unconstitutional; (iii) where the legislation is introduced to overcome a judicial decision, the power cannot be used to subvert the decision without removing the statutory basis of the decision. There is no fixed formula for the expression of legislative intent to give retrospectively to an enactment. A validating clause coupled with a substantive statutory change is only one of the methods to leave actions unsustainable under the unamended statute, undisturbed. Consequently, the absence of a validating clause would not by itself affect the retrospective operation of the statutory provision, if such

retrospectively is otherwise apparent.”

Reference at this stage can be made to judgment of Hon'ble the Supreme Court in a case of *State of Sikkim and others vs. Adup Tshering Bhutia and others 2014 (12) SCC 507* wherein the question was with regard to integration of Police Service seniority, amendment of Rules were challenged. Prior to the constitution of integrated Sikkim Police Force w.e.f 11.09.2000 as per the Sikkim Police Force (Recruitment, Promotion and Seniority) Rules, 2000, there were three different services viz (1) Sikkim Police Force (2) Sikkim Armed Police Force and (3) Sikkim Vigilance Police. All the three forces were governed by separate service rules. There is entry level of constable in all the three forces. The Sikkim Vigilance and Sikkim Armed Forces ended with the cadre of inspector. In the case of Sikkim Armed Police there was also 50% direct recruitment at the level of sub-inspector. Promotion to the post of Deputy Superintendent of Police was available only to the Sikkim Police Force. The posts of Deputy Superintendent of Police in Sikkim Vigilance Police and Sikkim Armed Police were filled up only by deputation. The personnel belonging to the Sikkim Vigilance Police and Sikkim Armed Police had been raising their grievances with regard to lack of promotion beyond inspector of police at various levels. The grievance of the writ petitioner was that he joined Sikkim Police as a Constable on 12.08.1974. He was absorbed in the Sikkim Vigilance Police on 12.09.1978. He was promoted as sub-inspector on 22.12.1986 and was further promoted as inspector on 26.09.1995. On account of the retrospective promotion granted to the members of the Sikkim Police Force based on the date of appointment/promotion as sub-inspector in the case of the other two services, the writ petitioner became

junior to them, affecting his chances of promotion to the post of Deputy Superintendent of Police. Hon'ble the Supreme Court allowed the appeal and in para 26 and 29 has observed as under:-

26. The High Court patently erred in holding that the acquired or accrued rights of the writ petitioner had been affected by the fixation of seniority at the level of sub-inspector of Police. It has to be noted that, but for merger, neither the writ petitioner nor the members of the two other police forces, viz., Sikkim Vigilance Police and Sikkim Armed Force, could have got any promotion at all to the post of Deputy Superintendent of Police. The very purpose of integration was to remove the inequality and provide them with the opportunity for promotion to the post of Deputy Superintendent of Police. If length of continuous service in the highest cadre of some similar services is taken as the basis of fixing the seniority and for further promotion to higher posts that would certainly result in deeper injustice to the members of the other services. It was hence the State, after due deliberations and based also on report of an expert Committee consisting of the top level offices in the State, took an equitable decision to make the post of sub-inspector of Police, where there is direct level entry in one of the services, as the determining factor for fixation of seniority. The writ petitioner did not suffer any demotion in the process. He continued in the post of inspector. The only thing is that his compeers in Sikkim Police Force who could not get accelerated promotion to the post of inspector, but who are admittedly

senior to him if the date of appointment to the post of sub-inspector is taken, were given the deemed date of promotion to the post of inspector based on the seniority at the level of sub-inspector. The amended rule certainly has thus a nexus to the injustice sought to be removed so as to balance the equity. It is neither irrational nor arbitrary.

29. Be that as it may, the High Court has already protected the promotions granted to the private respondents but the High Court has struck down the Rule and has quashed the seniority list. As we have already noted above, the High Court has unfortunately missed the crucial consideration with regard to the principles set by the State with regard to fixation of seniority, the purpose sought to be achieved in the process, the relevant considerations which lead to the decision and the materials including the report of the expert committee which were relied on by the State in the process of making and taking of the decision. The State has only acted within its authority under [Article 309](#) of the Constitution of India in bringing about the clarificatory amendment with regard to the fixation of seniority in the cadre of sub- inspectors. The retrospectivity given to the private respondents by giving the deemed date of promotion is neither arbitrary nor unreasonable. On the contrary, it is perfectly just, fair and equitable in the given circumstances without which the integration of services would have resulted in graver inequality and injustice to the members of the major service. In the result, the appeal is allowed. The

impugned judgment is set aside. Writ Petition filed by the private respondent in High Court is dismissed.”

The first question which can be taken up for consideration is that whether the judgment passed in ***Sunita Rani's case (supra)*** is binding precedent to the effect that the benefit of amendment made in the year 2017 in the present matter, can be given prospectively.

At this stage, reference can be made to **Zile Singh's case (supra)** wherein in para No. 15 to 17, Hon'ble the Supreme Court has observed that retrospectivity cannot be presumed, rather there is presumption against retrospectivity. However, in the absence of a retrospective operation having been expressly given, the Courts may be called upon to construe the provisions and answer the question whether the legislature had sufficiently expressed that intention giving the Statute retrospectivity. The rule against retrospectivity is inapplicable to such legislations as are explanatory and declaratory in nature. The retrospectively is liable to be decided on a few touchstones.

However, in ***Adup Tshering Bhutia's case (supra)***, Hon'ble the Supreme Court was examining a case of three different services wherein prior to the constitution of integrated Sikkim Police Force w.e.f 11.09.2000 as per the Sikkim Police Force (Recruitment, Promotion and Seniority) Rules, 2000, there were three different services viz (1) Sikkim Police Force (2) Sikkim Armed Police Force and (3) Sikkim Vigilance Police. All the three forces were governed by separate service rules. The Sikkim Vigilance and Sikkim Armed Forces ended with the cadre of inspector. In the case of Sikkim Armed Police there was also 50% direct recruitment at the level of sub-inspector. Promotion to the post of Deputy Superintendent of Police

was available only to the Sikkim Police Force. The posts of Deputy Superintendent of Police in Sikkim Vigilance Police and Sikkim Armed Police were filled up only by deputation. The High Court had struck down the Rule and the seniority list. Hon'ble the Supreme Court allowed the appeal and held that the State has only acted within its authority under [Article 309](#) of the Constitution of India in bringing about the clarificatory amendment with regard to the fixation of seniority in the cadre of sub-inspectors. The retrospectivity given to the private respondents by giving the deemed date of promotion is neither arbitrary nor unreasonable. The amendment has been done in view of the report of the Expert Committee.

Thereafter in *Sunita Rani's case (supra)*, this Court held that the amendment made in the year 2017 was to be made applicable prospectively and cannot be applied retrospectively. This order was passed as the amendment was silent on the retrospective effect. However, as per *Zile Singh's case (supra)*, the Court can construe the provisions and answer the question whether the legislature had sufficiently expressed that intention giving the Statute retrospectivity

Keeping in view above Supreme Court judgments, this Court will now examine whether the amendment made in the year 2017 can be applied prospectively or retrospectively.

Reference at this stage can be made to *Ajit Singh's case (supra)* wherein the respondents denied the petitioner promotion to the post of HeadMaster on the ground that he did not possess the requisite qualification of B.Ed. Prior to his appointment, the petitioner possessed the qualification of Shastri, B.A, Shiksha Shastri (B.Ed), M.A and M.Ed. The writ petition was allowed in view of circular which revealed that the

Government unequivocally declared the qualification of Shiksha Shastri as being equivalent to that of B.Ed. It was held that such an interpretation of the circular (Annexure P-5) would be incomprehensible and arbitrary. Once an employee has been selected on the ground that qualification is equivalent to the basic qualification prescribed, he is deemed to possess the prescribed qualification.

Further in *Deepak Sharma's case (supra)*, a direction was given to to constitute an Experts Committee to examine the issue of equivalence. The team of Experts, if constituted would keep in view the fact that NCTE has recommended the qualification of MA in the subject concerned as also 'equivalent' thereto as a valid qualification. The Commission thereafter made amendments in the Rules and amendment was carried out in the year 2017. This amendment can be taken to be only clarificatory. Shiksha Shastri was treated to be equivalent to B.Ed right from 1998 and prior to the year 1998, even the Central Government had considered the qualification of Shiksha Shastri equivalent to B.Ed, as per instructions dated 12.08.1974, 09.08.1996 and 15.10.2013 which are part of the official file produced by the State.

The ratio of the above judgment can be applied to the facts of the present case wherein benefit of instructions dated 30.04.1998 issued by State of Haryana and general instructions 02.11.1999 were given to the candidates earlier by treating their qualification of Shiksha Shastri equivalent to B.Ed despite the fact that there was no amendment in the 1998 Rules. This benefit of instructions now cannot be denied to the present petitioners simply on the ground that in 2012 Rules, there is a condition that the candidates have to possess the qualification of B.Ed as well as there is

no provision of equivalence.

Learned senior counsel for the petitioner has shown to the Court the reply filed by the respondents in review application No. 93-2014 against the judgment passed in ***Bahadur's case (supra)***. ***This reply is taken on record as Annexure R-3.*** In this reply, the respondents have placed on record the copy of letter dated 02.11.1999 (R.W.1) and 25.06.2008 (R.W.2). the stand taken by the respondents in its reply. As per letter dated 02.11.1999, the department has taken a decision that the degrees/diploma/certificates/examinations recognized by the Kurukshetra University, Kurukshetra, MDU, Rohtak, GBU, Hissar, HAU, Hissar, N.D.R.I Karnal, Board of School Education Haryana, Bhiwani; State Board of Technical Education Haryana would stand recognized in the State of Haryana for admission and recruitment purposes. Further as per letter dated 25.06.2008 (R.W.2), the Kurukshetra University has informed that degree of Shiksha Shastri (B.Ed) of Rastriya Sanskrit Sansthan (Deemed University) New Delhi stands recognized as equivalent to B.Ed for the limited purpose of higher studies.

Thus the State has relied upon the above instructions to get the review application dismissed and they have taken a specific stand that the qualification of Shiksha Shastri (B.Ed) is equivalent to B.Ed.

Further the point for consideration is that judgment passed in ***Sunita Rani's case (supra)*** can be binding precedent to consider these petitioners ineligible before the amendment was made in the year 2017. The answer to this question would be that Division Bench has rightly held that amendment made in the Rules are prospective in nature.

In the present cases, the point for consideration before this

Court is whether qualification of Shiksha Shastri is equivalent to qualification of B.Ed. As per official file produced by the State, the decision has been taken to treat Shakshi Shastri equivalent to B.Ed, keeping in view the past letters of Government of India and State of Haryana. Thus benefit of the past instructions/letters of State of Haryana can be extended to petitioners to treat them eligible. the amendment was made by notification dated 23.6.2017 as under:

“(i) M.A Sanskrit/Acharya with at least 50% marks and B.Ed./Shiksha Shastri/Language Teachers Course (L.T.C)/ Oriental Training (O.T) in Sanskrit from a recognized university or conducted by the Haryana Education Department or an equivalent qualification recognized by Haryana education Department.”

In the present case, the above amendment made in the year 2017 in the Rules can be held to clarifactory and declaratory in nature and thus the petitioners have a right to be considered eligible in view of ***Adup Tshering Bhutia's case (supra)***. In the present cases, right from the beginning as discussed above, the degree of Shiksha Shastri has been treated equivalent to B.Ed and thus the petitioners cannot be held to be ineligible on the sole ground that the amendment made in the year 2017 is prospective in nature. The retrospectivity is reasonable and not excessive or harsh, in view of guidelines laid down in Zile Singh's case (supra)

In the judgment referred to by learned counsel for the respondents in ***Vikas Sharma's case (supra)***, the writ petition was dismissed on the ground that there is no question of treating an equivalent qualification when there is no such discretion provided for under the

Statutory Rules. The qualification under the Statutory Rules being clear and specific i.e M.A Sanskrit with at least 50% marks, the Court cannot import such a condition/qualification which would make the candidate possessing an equivalent degree eligible for appointment when the statutory rules do not permit so. However when the above judgment was passed, before the learned Single Judge the entire record pertaining to recognition granted vide letters dated 30.04.1968 and 02.11.1999 was not discussed and hence keeping in view the *Som Dutt's case (supra)*, the writ petition was dismissed. Even LPA No. 1121-2014 filed against above judgment dated 20.01.2014 has been dismissed by a Division Bench of this Court on 10.09.2014. Even though the judgment passed in *Vikas Sharma's* case has attained finality but this judgment is not applicable to the facts of the present case as in the present case, the petitioners are seeking the benefit of instructions dated 30.04.1998 and 02.11.1999 to the effect that their qualification of Shiksha Shastri is equivalent to qualification of B.Ed and the present petitioners are not seeking the benefit of qualification of Acharya equivalent to M.A Sanskrit.

The argument of learned State counsel that qualification of Shiksha Shastri has only been recognized as equivalent to B.Ed only for O.T course, is liable to be rejected in view of letter dated 30.04.1998 and 02.11.1999 which does not state anywhere that qualification of Shiksha Shastri is to be treated equivalent to OT.

As per information Bulletin for the year 2012-13 supplied by Mr. Rajiv Atma Ram, learned senior counsel, for the post of PGT (English) (Hindi) (Geography) (Sanskrit) (Home Science) (Sociology) (Physical Education) (Psychology) (Punjabi) (Urdu) (History) and (Political Science),

the following qualification is required:-

(i) a candidate should have a post graduate degree in the concerned subject with at least 50% marks from a recognized University and B.Ed from recognized university. Further he should be matric with Hindi/Sanskrit or Sr. Secondary/Graduation/Post Graduation with Hindi as one of the subjects.”

Further, learend senior counsel has shown one paper with regard to meeting regarding equivalency of B.Ed and B.Ed Shiksha Shastri and as per meeting held by Kurukshetra University on 16.01.2019, it has been resolved that both the degrees (B.Ed and B.Ed (Shiksha Shastri) be considered as equal for the purpose of education as well as for recruitment.

In the present case, all the candidates have qualified HTET before the amendments made in the Rules in 2017 and they were considered eligible as they were having the qualification of Shiksha Shastri from a recognized University. Hence once they have been allowed to participate in the Haryana Teacher Eligibility Test, they cannot be now declared ineligible only on the ground that amendment made in the Rules in the year 2017 has to be applied prospectively.

As per letter/instructions dated 02.11.1999, all the qualification duly recognized by the Universities mentioned in column No. (i) and the Teacher Training Courses recognized by National Council of Teacher Education, New Delhi would stand recognized in the State of Haryana for the purpose of admission and recruitment purposes. The last column of the above letter makes it abundant clear that the amendment was carried out in the year 2017 after taking the advice of the Universities. Thus keeping in view the fact that the amendment was carried out after taking advice from

the Universities and the fact that the benefit of equivalence has been extended as per 1998 Rules to all the candidates, the qualification of Shiksha Shastri of all the candidates in the present cases have to be treated equivalent to B.Ed. The benefit of amendment carried out in 2017 has to be applied retrospectively as the amendment is explanatory and declaratory in nature, which is reasonable and not excessive or harsh, in view of guidelines laid down in ***Zile Singh's case (supra)***

In view of the discussion made above, the writ petitions are allowed and impugned notice/announcement dated 09.12.2018 is set aside. A direction is being given to the State to declare the result afresh by treating the petitioners eligible. This exercise shall be completed within a period of two months from the date of receipt of certified copy of this order.

All pending applications stands disposed of.

The Registry is directed to page mark all the documents which have been placed on record by learned counsel for the parties during the course of hearing of the writ petitions and have been referred to in the present petitions.

06.11.2019

G Arora

(***RITU BAHRI***)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No