IN THE HIGH COURT OF TRIPURA
A G A R T A L A
WP(C)1079 of 2018
WP(C)1080 of 2018
WP(C)1082 of 2018

In WP(C)No.1079 of 2018

Smt. Simasree Datta,
daughter of Sri Himangshu Bikash Datta,
resident of Village-West Pilak,
P.O. Madhya Pilak,
P.S. Bikhora, Sub-Division-Shantirbazar,
District : West Tripura

..... Petitioner(s)

– V e r s u s –

1. The State of Tripura,
to be represented by the Principal Secretary, Education (School) Department, Government of Tripura, New Secretariat Complex, Kunjaban, Agartala, West Tripura, PIN : 799010

2. The Principal Secretary,
Secondary Education Department,
Government of Tripura, New Secretariat Complex, Kunjaban, Agartala, West Tripura, PIN : 799010

3. The Teachers Recruitment Board,
Education (School) Department, Governent of Tripura, Shiksha Bhavan, Office Lane, Agartala, (to be represented by the Member Secretary, Teachers Recruitment Board, Education(School) Department, Government of Tripura, Shiksha Bhavan, Office Lane, Agartala), PIN : 799001

4. The Chairman,
Teachers Recruitment Board, Education (School) Department, Government of Tripura, Shiksha Bhavan, Office Lane, Agartala, PIN : 799001

5. The Member Secretary,
Teachers Recruitment Board, Education (School) Department, Government of Tripura, Shiksha Bhavan, Office Lane, Agartala, PIN : 799001

6. The Director of Secondary Education,

Government of Tripura, Shiksha Bhavan, Office Lane, Agartala, PIN : 799001

..... Respondent(s)

In WP(C)No.1080 of 2018

Smt. Paramita Biswas,
daughter of Sri Swapan Biswas,
resident of Village-Rajnagar,
P.O. Rajnagar,
P.S. P.R. Bari, Sub-Division-Belonia,
District : South Tripura

..... Petitioner(s)

– V e r s u s –

1. The State of Tripura,
to be represented by the Principal Secretary, Education (School) Department, Government of Tripura, New Secretariat Complex, Kunjaban, Agartala, West Tripura, PIN : 799010

2. The Principal Secretary,
Secondary Education Department,
Government of Tripura, New Secretariat Complex, Kunjaban, Agartala, West Tripura, PIN : 799010

3. The Teachers Recruitment Board,
Education (School) Department, Governent of Tripura, Shiksha Bhavan, Office Lane, Agartala, (to be represented by the Member Secretary, Teachers Recruitment Board, Education(School) Department, Government of Tripura, Shiksha Bhavan, Office Lane, Agartala), PIN : 799001

4. The Chairman,
Teachers Recruitment Board, Education (School) Department, Government of Tripura, Shiksha Bhavan, Office Lane, Agartala, PIN : 799001

5. The Member Secretary,
Teachers Recruitment Board, Education (School) Department, Government of Tripura, Shiksha Bhavan, Office Lane, Agartala, PIN : 799001

6. The Director of Secondary Education,

Government of Tripura, Shiksha Bhavan,
Office Lane, Agartala, PIN : 799001

..... Respondent(s)

In WP(C)No.1082 of 2018

Sri Nilkanta Deb,
son of Sri Nayan Bhushan Deb,
resident of Village-Bhagyapur,
P.O. Peachardahar, P.S. Kailashahar,
Sub-Division-Kailashahar,
District : Unakoti Tripura,
PIN : 799280

..... Petitioner(s)

– V e r s u s –

1. The State of Tripura,
to be represented by the Principal Secretary, Education (School) Department, Government of Tripura, New Secretariat Complex, Kunjaban, Agartala, West Tripura, PIN : 799010

2. The Principal Secretary,
Secondary Education Department,
Government of Tripura, New Secretariat Complex, Kunjaban, Agartala, West Tripura, PIN : 799010

3. The Teachers Recruitment Board,
Education (School) Department, Governent of Tripura, Shiksha Bhavan, Office Lane, Agartala, (to be represented by the Member Secretary, Teachers Recruitment Board, Education(School) Department, Government of Tripura, Shiksha Bhavan, Office Lane, Agartala), PIN : 799001

4. The Chairman,
Teachers Recruitment Board, Education (School) Department, Government of Tripura, Shiksha Bhavan, Office Lane, Agartala, PIN : 799001

5. The Member Secretary,
Teachers Recruitment Board, Education (School) Department, Government of Tripura, Shiksha Bhavan, Office Lane, Agartala, PIN : 799001

6. The Director of Secondary Education,

Government of Tripura, Shiksha Bhavan,
Office Lane, Agartala, PIN : 799001

..... Respondent(s)

For Petitioner(s)	**:**	Mr. K. Nath, Adv.
For Respondent(s)	**:**	Mr. D. Sharma, Addl. G.A.
Date of delivery of Judgment & Order	**:**	13.01.2020
Whether fit for reporting	**:**	**YES** √ / **NO**

HON'BLE MR. JUSTICE S. TALAPATRA

JUDGEMENT & ORDER (Oral)

All these writ petitions being WP(C)No.1079 of 2018 [Smt. Simasree Datta versus State of Tripura & Others], WP(C)No.1080 of 2018 [Smt. Paramita Biswas versus State of Tripura & Others] & WP(C)No.1082 of 2018 [Sri Nilkanta Deb versus State of Tripura & Others] are combined for disposal by a common judgment inasmuch as the grievance canvassed in these writ petitions are identical, even in the reliefs so urged in the individual writ petition cannot be differentiated.

2. For purpose of elucidation of fact in the appropriate manner, it may be noted that the petitioners appeared in the test conducted by Teachers Recruitment Board Tripura (TRBT), the respondent No.3 in terms of the notification dated 17.11.2017 for selection to the post of graduate teacher [for Class-IX and X] under the Directorate of Secondary Education, Government of Tripura. According to the said notification, persons having the required age might apply for that post, if they had 50% of marks in the graduation or post-graduation [or its equivalent] and Bachelor of Education [B.Ed.] from any institution recognised by National Council for Teacher Education [NCTE] or atleast 45% marks either in the graduation or in the post-graduation [or its equivalent] and

Bachelor of Education [B.Ed.] from any institution recognised by National Council for Teacher Education. Those qualifications as referred above are in conformity with the Recruitment Rules, 2016 for the post of raduate Teachers for Classes-IX and X under the Education Department, Department of Secondary Education. The rules as relevant for the present purpose have been exhaustively reproduced in the writ petition.

3. According to the petitioners, they had the requisite qualification. Initially, there had been no difficulty with the qualification. When the result was published in order of merit, TRBT recommend their names in order of merit. The petitioners were asked to take part in the verification process and according to the petitioners, all the certificate as produced to justify their qualification were accepted by the TRBT without any objection. In the course of the time, the petitioners had accepted the offers of appointment to the said post of graduate Teacher. The offers were accepted by the petitioner and they submitted all required testimonials in the Office of the Directorate of Secondary Education. The due acknowledgement was issued to the individual petitioner. But when some of the selected candidates were issued the letter of appointment, the petitioners were not favoured with such letter of appointment without any apparent reason. When the respondents did not issue the letter of appointment as legitimately expected by the petitioners, the petitioners have approached this court by contending that "there is absolutely no reason for not appointing" the petitioners in the said post. By the action, the respondents have rendered the selection process a farce, belying the fairness in the action. In this perspective-fact, the petitioners have urged this court to direct the respondents to issue the letter of appointment in favour of the petitioners in the post of post-graduate teacher without within a time frame.

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4. The respondents have filed the reply and denied the allegation made by the petitioners and they have admitted that the offers of appointment were issued to the petitioners along with other candidates who had participated in the selection process and were successful. Thereafter, the petitioners had submitted the acceptance of the offer of appointment along with the copies of the testimonials. It has been asserted by the respondents quite emphatically that during scrutiny of the mark sheet and certificate, it surfaced that the B.Ed degree which was issued in favour of the petitioners was a degree in Special Education from ICFAI University. According to the respondents, the degree of Bachelor of Education (B.Ed.) has to be obtained from an institution recognised by National Council for Teacher Education (NCTE) in terms of the recruitment rules, as referred above.

5. In para-16 of the reply filed by the respondents in WP(C)No.1079 of 2018 [Smt. Simasree Datta versus State of Tripura & Others] which is the lead case for this batch of writ petitions, it has been categorically asserted that the professional qualification of the petitioners was found to be B.Ed. in Special Education from an institution not recognised by the NCTE. The respondents have found that professional qualification was not in conformity to the required qualification as specified in the recruitment rules as stated above and as required by the notification dated 17.11.2017 [Annexure-1 to the writ petition]. However, in the said reply, the respondents have noted that a batch of writ petitions were pending in this court for treating the degree in B.Ed in Special Education at par with the degree of B.Ed obtained from the institution recognised by NCTE. At the time of filing of the reply, those writ petitions were not decided. But by a division bench of this court, those writ petitions have by now been decided by the judgment dated

19.12.2018 [**Sudipa Saha versus State of Tripura and Others]** along with other writ petitions]. In those writ petitions, the similar relief was urged for treating the degree of B.Ed [Special] as equivalent to B.Ed. [regular].

6. After appreciating the perspective-fact and the provision in respect of essential minimum qualifications in **Sudipa Saha** (supra) it has been observed, inter alia, that :

(1) Even under the provision of equivalence so stipulated therein the petitioners' education fulfilling the eligibility criteria does not match with that of the criteria required under the Right to Education Act.

It has been observed further as follows :

> **"51. We notice that even in their notification dated 29 th July, 2011 so issued by the NCTE prescribing the qualification for class-I to VIII, such of those persons who have acquired their degree in B.Ed (Special Education) are required to undergo special programme from an NCTE recognised institute in elementary education for a period of six months.**
>
> **52. Before us, NCTE has filed an affidavit categorically stating that B.Ed (Special Education) is not an eligibility criterion for appointment of a teacher in Senior and Senior Secondary classes. Further, Rehabilitation Council has been taking a contradictory stand which fact is evident from para 14 of the affidavit, which reads as under:**
>
> > **14. That with reference to the statements made in para 18 & 19 of the writ petition, the answering deponent begs to state that taking reference to the earlier RTI reply dated 1-4-2017 given by the Public Information Officer (PIO), NCTE, Regional Office, Bhubaneswar, it was wrongly answered to the query no. 1 by replying that "the B.Ed. degree approved either by NCTE and RCI is considered to be equivalent to each other" (Annexure-11 of the writ petition). The same was subsequently clarified by a letter dated 6-11-2017 issued by the Under Secretary (Legal), NCTE, Head Office, New Delhi, to the Regional Director, Eastern Regional Committee that ".....the NCTE notification dated 23-8- 2010, 29-7-2011 & 12-11-2014 does not speak about the equivalency of B.Ed. with B.Ed.(Special Education) to teach classes IX-X & XI-XII". Moreover, the answer deponent further begs to state that the Rehabilitation council of India (RCI) in WP(C) NO. 520/2017 being respondent No.4 specifically admitted the fact in the counter affidavit in para 5 that B.Ed. Spl Education is not an eligible qualification for PGT and GT.**
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> > **Copy of the letter dated 6-11-2017 issued by the Under Secretary (Legal), NCTE, to the Regional**

> **Director, Eastern Regional Committee, is annexed herewith as Annexure-B.**
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> **53. Simply because certain States, on the basis of equivalence, have held B.Ed (Special Education) equivalent to that of B.Ed. degree in General Education, would not confer any right upon the petitioners. Nor would the decision of the NCTE to consider the same with future effect confer any right for what is to be seen is the eligibility of the candidates as on the date when the advertisement was issued."**

7. Having heard the counsel for the parties exhaustively, this court is of the view that to claim equivalence in respect of the qualification is not a matter of right for the candidates. Whether the degree or other qualification is equivalent to the prescribed qualification falls within the exclusive domain of the employer. However, if it can be demonstrated that while considering equivalence, the employer had acted unfairly or whimsically, the judicial review can be maintained for a limited purpose.

8. In **Nagpur Improvement Trust and Another versus Vithal Rao and Others** reported in **(1973) 1 SCC 500** a constitutional bench of the Supremene Court while considering the question of reasonableness vis-a-vis Article 14 of the Constitution, it has been noted that the state can make a reasonable classification for the purpose of legislation and that classification in order to be reasonable must satisfy two tests : (i) the classification must be founded on intelligible differentia and (ii) the differentia must have a rational relation with the object sought to be achieved by the legislation in question.

The court has emphasized that in that regard, object itself should be lawful and cannot be discriminatory.

9. In this batch of writ petitions, the object of the relevant recruitment rules is that the candidates must have a degree of Bachelor of Education [B.Ed.] from an institution recognised by the NCTE. That has

been so done to ensure the legislative purpose of quality education as envisaged in the Right to Education Act. Neither the object nor the provision itself is discriminatory or unfair. Thus, this court does not have any disagreement in respect of the opinion expressed in **Sudipa Saha**(supra). Hence, the writ petitions are bereft of merit as the degree of Bachelor of Special Education as obtained by the petitioners were rightfully not equated with the required degree of education.

In the result, the petitioners are not entitled to get any direction mandating the respondents to appoint them in the post of graduate teacher in term of the notification dated 17.11.2017 [Annexure-1 to the writ petition].

Having observed thus, the writ petitions are dismissed. However, there shall be no order as to costs.

JUDGE

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