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HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 234 of 2020**

*{Arising out of order dated 30.09.2019 passed by the learned Single Judge in
Writ Petition (S) No. 7918 of 2019}*

- Anchal Sahane D/o Chandan Singh Sahane Aged About 25 Years R/o E-14, Teachers Colony, Ramkrishan Mission Aashram, Narayanpur, District Narayanpur Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh Through - The Secretary, School Education Department, Mantralaya, Capital Complex, Mahanadi Bhawan, New Raipur, District - Raipur Chhattisgarh.
2. The Director Directorate of Public Instruction Raipur Naya Raipur Chhattisgarh.
3. Chhattisgarh Public Service Commission Through Its Secretary, Shankar Nagar Road, Raipur Chhattisgarh.
4. Controller of Examination Chhattisgarh Public Service Commission, Shankar Nagar Road, Raipur, Chhattisgarh.

---- Respondents

For Appellant	: Shri Jeet Patel, Advocate.
For Respondent/State	: Shri Sudeep Agrawal, Deputy Advocate General.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge
Judgment on Board

Per Parth Prateem Sahu, Judge**06.03.2020**

1. Appellant has challenged the impugned order dated 30.09.2019 passed by the learned Single Judge in WPS No. 7918 of 2019, whereby the writ petition, seeking directions to the Respondents for giving preference/

benefit/ bonus marks to the Petitioner in recruitment proceedings initiated vide Notification dated 09.03.2019, was dismissed on account of obtaining B.Ed. Degree/certificate.

2. The facts of the case are that the Appellant is a B.Sc. (Agriculture) qualified person and has also obtained a degree of B.Ed. from Pandit Ravishankar Shukla University, Raipur. The Respondent No.2 had issued an Advertisement for recruitment of Lecturers, Teachers and Assistant Teachers to be appointed in the Districts mentioned in the Advertisement. In Advertisement, the minimum qualification for Lecturers, Teachers and Assistant Teachers has been specifically mentioned. The relevant post, for which Petitioner is having grievance is Teacher (Agriculture). In the Advertisement different subjects have been mentioned in a column showing the relevant subject in which the candidates who are submitting their applications for appointment as Teacher should be 'Graduate'. In said column Agriculture subject has been shown in Sl.No.4. Beneath the said column a note has been appended in which it has been mentioned that for appointment of Teachers of the subject as mentioned at Sl.No.4 and 5, B.Ed./D.Ed./TET are not essential requirement. Sl. No.4 is an Agriculture subject and Sl. No.5 is the Physical Education subject.

3. The Appellant/Petitioner has filed the writ petition seeking following reliefs:

“10.1 That this Hon'ble Court may kindly be pleased to direct the respondents to give preference/benefit/bonus/marks to the petitioner for her B.Ed. degree to appointment on the post of Agriculture (Teacher) in the teacher group recruitment process, in the interest of justice.

10.3 That, any other relief which the Hon'ble Court may deemed fit and proper also be granted to the petitioner, in the interest of justice”

4. The relief No.10.1, as sought for by the Appellant/Petitioner in her writ petition, is for granting preference/benefit/bonus marks to the Petitioner

for her additional qualification of having B.Ed. degree in the process of recruitment of Teacher (Agriculture).

5. When the matter came up for hearing, the learned Single Judge after hearing both the sides dismissed the writ petition by observing that the classification has been made by the employer between Teachers of English, Science, Mathematics and the Teachers of Agriculture and Physical Education, which cannot be said to be an arbitrary exercise as it is not found to be contrary to the rules governing the field.
6. The learned counsel for the Appellant/Petitioner submits that the post of Teacher for Agriculture or for Teachers (Physical Education) is also a post of teaching and not an administrative post and therefore, the Respondent/State ought not to have relaxed the qualification of having B.Ed./D.Ed. Certificates and passing of TET examinations. It is further argued that even if the Respondent/State had not made the qualification of B.Ed./D.Ed. and TET to be essential then also the Respondent/State ought to have made provision for providing additional marks or giving preference to the candidates having the additional qualification of B.Ed./D.Ed. and TET. He further pointed out that by not granting the additional benefits to the candidates like Appellant/Petitioner who is having the additional qualification of B.Ed./D.Ed. and has get themselves trained for joining the service of teaching, they will be deprived of getting the fruits of additional qualification being a trained candidate and thereby the other candidates who are not trained will supersede the Appellant/Petitioner in the process of recruitment as per the Advertisement (Annexure-P/1).

7. Per contra, the learned counsel appearing for the Respondent/State submits that, the Respondent/State, after taking note of all the facts and circumstances, have specifically relaxed the conditions of having the qualification of B.Ed./D.Ed. and TET which is for the benefit of all. The action on the part of the Respondent/State by relaxing the eligibility criteria of having the essential qualification of B.Ed./D.Ed. and TET for the appointment of Teachers on two subjects is not an arbitrary action on the part of the Respondents. He also submits that the Appellant has not challenged the Advertisement itself but she is claiming relief of granting the preference/benefit/bonus marks to her, which cannot be granted to her, in view of the specific clause mentioned in the Advertisement itself.
8. We have heard the learned counsel for the respective parties and also perused the materials placed on record before us.
9. Annexure-P/1 is an Advertisement issued by the Respondent No.2, in which Clause 2 provides for 'Minimum Educational Qualifications' for the post of Assistant Teachers, Teachers and Lecturers. Clause 2(two) prescribed for the 'Minimum Qualifications' for appointment of the Teachers in Clause 2(two)(A), and in Clause 2(two)(B) the different subjects have been shown for appointment of Teachers including the subject of Agriculture and Physical Education. Under the column, note is also mentioned and at Sl.No.1 for the subjects mentioned at Sl.No.4 and 5 of chart i.e. the Agriculture and Physical Education subject, the requirement of having B.Ed./D.Ed. and TET has not been made essential. The relief claimed by the Appellant/Petitioner is only for giving preference/benefit/bonus marks to her in pursuance of having qualification of B.Ed. She has not challenged the Advertisement pointing

out to be contrary to the rules or any law and in what manner the action of Respondent/State in relaxing the qualification of having B.Ed./D.Ed. and TET certificates to be arbitrary.

10. It is for the employer to prescribe for the minimum qualification for appointing any government servant in a particular post. Unless and until the requirement mentioned in the Advertisement itself is challenged on the ground of arbitrariness or in contravention of any provision of law or rules, the Court cannot direct for the relief of giving preference/ benefit/ bonus marks on the ground of having additional qualification or having the qualification of B.Ed. degree and TET as has been made essential for the Teachers to be appointed for other subjects.
11. The learned Single Judge, while dismissing the writ petition has assigned following reasons in paragraph 3 and 4, which is in the following terms:

“3. Perusal of record would show that in none of the course have the respondents granted any preferential treatment to the persons with B.Ed course. The only difference is that for all other subjects like English, Biology and Mathematics the candidates who intend to apply should also have B.Ed course in addition to their basic qualification whereas, for the subject in Agriculture and Physical Education, the requirement of B.Ed qualification is not mandatory. Such classification which has been made by the employer has not been found to be contrary to rules governing the field. Neither can it be said to be malafide or arbitrary as these are subjects where there reasonable classification made for the subject concerned and for the said reason perhaps the respondents do not require the degree of B.Ed for the purpose of employment in Agriculture and Physical Education Subjects.

4. Thus, this court does not find any strong case made out by the petitioner calling for an interference with the advertisement or recruitment process initiated. It is not a case where the petitioner has been deprived to participate in the

recruitment process. It is a case where the petitioner by virtue of her degree/qualification is claiming for preferential treatment which otherwise is not provided under the rules or regulations governing the field.”

12. In view of the above discussions and findings recorded by the learned Single Judge in the order impugned, we do not find any infirmity or perversity in the impugned order. The appeal being devoid of any substance, which is liable to be and is hereby dismissed.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge