

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 3715 of 2021

Navin Kumar Soni S/o Babu Lal Soni, Aged About 39 Years, R/o
Dipka Purani Basti, Near Sai Mandir, Dipka, District Korba,
Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Higher Education
Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava
Raipur, District Raipur, Chhattisgarh
2. Secretary, Public Service Commission, Raipur, District Raipur
Chhattisgarh
3. Director, Directorate, Department Of Higher Education, Indrawati
Bhawan, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh

---Respondents

For Petitioner	:	Shri C. Jayant K. Rao, Advocate.
For State	:	Shri Amrito Das, Addl. Advocate General.
For PSC	:	Shri Anand Mohan Tiwari, Advocate.

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

19.07.2021.

1. Aggrieved by the action on the part of the respondent no.2
disqualifying the petitioner from further recruitment process to the
post of Assistant Professor (Botany), the present writ petition has
been filed. The petitioner has been orally intimated that he stands
disqualified as he does not have the qualification prescribed for the
said post.

2. The brief facts relevant for disposal of the present writ petition are that the petitioner had applied for the post of Assistant Professor (Botany) from the advertisement that was issued on 23.01.2019. The last date of submission of application was 04.02.2019 which was later on further extended to 12.04.2019. As per the advertisement the required educational qualification was :

(iv) आवश्यक शैक्षणिक अर्हताएं:-

(क) अच्छे शैक्षणिक रिकार्ड के साथ किसी भारतीय विश्वविद्यालय से स्नातकोत्तर उपाधि स्तर में संबंधित विषय में कम से कम 55% अंक (अथवा / एवं 7 बिन्दू ग्रेडिंग पद्धति में ग्रेड “बी”) अथवा किसी मान्यता प्राप्त विदेशी विश्वविद्यालय से समकक्ष उपाधि।)

3. The Govt. subsequently issued an order on 13.02.2019 (Annexure P-5) notifying the allied subjects to Botany on the basis of which the Public Service Commission issued a corrigendum publishing the allied subjects also so that other eligible candidates also could participate based on the allied subjects. For ready reference the allied subjects for Botany recognized by the State vide its order dated 13.02.2019 and the corrigendum issued by the PSC dated 23.02.2019 are as under:

Subject	Allied subjects
Botany	Micro Biology Bio Technology Environmental Science Forestry Bio Chemistry Bio Informatics Science Genetics Industrial Microbiology Life Science Genetics Engineering

4. The petitioner in the present writ petition has done his Master degree in Pharmacy as would be evident from Annexure P-2 and in the course of taking Master in Pharmacy he had studied Pharmaceutical Biotechnology. The petitioner participated in the recruitment process and was found meritorious. Thereafter he was called upon for document verification vide letter dated 24.06.2021. However, when the petitioner appeared for document verification and interview, he was orally informed that he does not have the requisite qualification and therefore the petitioner was not interviewed and he was orally declared disqualified.
5. Learned counsel for the petitioner submits that in the order of the State Govt. dated 13.02.2019 and the corrigendum which has been issued by the PSC on 23.02.2019 one of the allied subjects to Botany is Bio Technology and therefore, the petitioner having done Pharmaceutical Biotechnology he cannot be held to be disqualified only on this ground. The said course has to be accepted equivalent to Bio Technology and hence the petitioner could not have been disqualified and an appropriate direction therefore be issued to the respondents in this regard enabling the petitioner to get an appointment. According to the petitioner, once the allied subjects refer to Bio Technology and the petitioner also having done Pharmaceutical Biotechnology, the petitioner could not have been disqualified as Pharmaceutical Biotechnology and Bio Technology are almost one and the same subjects and the subjects are almost same in the two courses. According to the petitioner, once Bio Technology has been found to be an allied subject to Botany, any

course related to Bio Technology has to be accepted as equivalent to Bio Technology and in the course the petitioner would be entitled for the benefits of treating the two courses as equal. Hence, prayed for an appropriate relief in the given factual back drop.

6. Per contra, the State counsel so also the counsel for PSC drew the attention of this Court through the Master degree that the petitioner has obtained from Doctor Harisingh Gour Vishwavidyalaya, Sagar where the degree which the petitioner has obtained is clearly mentioned as Master of Pharmacy. Counsel for the respondents further submit that under no circumstances can a Master in Pharmacy degree holder be accepted as a candidate who has done his Master degree in the relevant subjects of Botany in this case or an equivalent course. According to the counsel for the respondents, the study of Botany is entirely different as compared to the study of Pharmaceutical or Pharmacy. The requirement for appointment of an Assistant Professor as per the advertisement is to teach the subjects of Botany and not a subject of Pharmacy. One or two subjects of Botany may have been taught in Pharmacy classes but that by itself would not mean nor can it be accepted to be one and the same course. Moreover, according to the counsel for the respondents, once when there is a list of allied subjects published, unless there is a specific order for treating any other course also to be equivalent to the courses which are otherwise reflected in the list of allied subjects, the candidates with any other course or having any other Master degree in any other subjects cannot be accepted. Counsel for the respondents submit that the respondent authorities

thus have not committed any error nor is there any malafide on the part of the respondents in declaring the petitioner disqualified.

7. This court finds enough force in the submissions made by the respondents for the reason that if we look into the advertisement, it would clearly reveal that the advertisement had very categorically specified that mandatory educational qualification was that of Post Graduation in the concerned subject which in the instant case would be Botany with minimum 55 percent marks. The said clause subsequently was further broadened by incorporating certain allied subjects to the subject Botany and those allied subjects are already reproduced in the preceding paragraph, one of the subjects in the same being Bio Technology.
8. Admittedly, in the corrigendum that was issued on 23.02.2019, Pharmaceutical Biotechnology is not notified as allied subject. This fact was known to the petitioner all along. The advertisement at the first instance was published on 23.01.2019. The corrigendum was issued in a months time thereafter on 23.02.2019. In spite of that the petitioner took a calculated risk of pursuing for the recruitment process without challenging to the advertisement or for that matter the corrigendum that was subsequently issued on 23.02.2019. Only because the petitioner in the past was permitted to participate in the recruitment process and was not disqualified by itself would not give force to the submissions made by the counsel for the petitioner making him eligible for participation when admittedly in the decision of the State Govt. dated 13.02.2019 and also in the corrigendum dated 23.02.2019 nowhere has it been mentioned that

Pharmaceutical Biotechnology would be accepted to be an allied subject to Botany, enabling a candidate to participate in the same.

9. There can be no dispute to the fact that so far as equivalence of qualification is concerned, it is exclusively within the realm of policy decision of the State Govt.. The High Court in exercise of its writ jurisdiction cannot decide the question of equivalence. The petitioner at the first instance itself ought to have challenged the advertisement as also the corrigendum that was issued seeking for incorporating Pharmaceutical Biotechnology also as one of the allied subjects. Whether a subject has to be accepted or not, so also whether a subject would be equivalent subject to the requisite qualification, the same is exclusively within the power and domain of the Government. The law in this regard stands well settled since long in case of State of Rajasthan and Others Vs. Lata Arun, 2002 (6) SCC 252. The same has further been reiterated in Guru Nanak Dev University Vs. Sanjay Kumar Katwal and Another, 2009 (1) SCC 610 wherein also the Supreme Court has in very categorical terms held that equivalence is a technical academic matter. It cannot be implied or assumed and it was observed that any decision of the academic body of the University relating to equivalence should be by a specific order of resolution duly published. There is no such specific order of resolution duly published in the instant case whereby Pharmaceutical Biotechnology can be accepted to be an equivalent subject to the subject specified under the advertisement.
10. Given the said facts as narrated in the preceding paragraphs and also the legal position as it stands, this court does not find any

strong case made out by the petitioner calling for an interference with the action on the part of the respondents in declaring the petitioner as disqualified for not having requisite qualification.

11. Rejection of the writ petition would not preclude the petitioner from approaching the respondents by way of representation seeking for treating the qualification of Master Degree in Pharmaceutical Biotechnology also as a subject and bringing the same under the allied subjects for Botany.

12. The writ petition accordingly fails and is dismissed.

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

Khatai