

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3965 of 2021

1. Jayant Kumar Sahu S/o Shri Arjun Kumar Sahu Aged About 28 Years R/o Village Salkhan, Post Salkhan, Tahsil Nawagarh, District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Higher Education, Mantralaya, Mahanadi Bhawan, Atal Nagar Nawa Raipur District Raipur Chhattisgarh
2. Chhattisgarh Public Service Commission Through Its Secretary, Shankar Nagar, Road, Raipur Chhattisgarh

----Respondents

For Petitioners	: Shri Ghanshyam Kashyap, Advocate.
For State	: Shri Amrito Das, Addl. A.G.
For PSC	: Shri Anand Mohan Tiwari, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

29/07/2021

1. Disqualifying of the petitioner for further recruitment process to the post of Assistant Professor (Physics) has led to filing of the present writ petition.
2. Counsel for the petitioner submits that the petitioner in the present writ petition has done his Master in M.E. (Microwave Engineering) and the post for which the petitioner had applied was AP (Physics). The qualification prescribed for the post of Assistant Professor (Physics) is Master in the relevant subject with 55% of marks. The State Government subsequently vide order dated 13.02.2019 and the PSC vide corrigendum dated 23.02.2019 had issued certain allied subjects which would be acceptable for the appointment of a

candidate for the post of Assistant Professor (Physics). The allied subjects accepted by the PSC and the State Government were applied Physics, Materials Physics and Electronic.

3. The petitioner in the instant case has done his Master in M.E. (Microwave Engineering). Counsel for the petitioner is trying to canvas that the M.E. (Microwave Engineering) is in-fact a course in Electronic itself, it is only a change of nomenclature in the institute from where the petitioner has undertaken his course, otherwise it is in the filed of Electronics itself.
4. Counsel for the petitioner also referred to the notification issued by the AICTE dated 28.04.2017, wherein the AICTE has published an Annexure whereby M.E. (Microwave Engineering) has also been ordered to be treated as a relevant and appropriate nomenclature for the purpose of UG degree and PG degree.
5. In this regard, what needs to be appreciated is the fact that there is no order, circular or notification issued by the State Government or for that matter the CGPSC accepting the various courses under the field of Electronics to be equivalent or a qualification which would be accepted to be equivalent to the Masters degree in Electronic. The question is, in the absence of any particular order, circular or notification of the State Government or the PSC, can the High Court treat the particular qualification which the petitioner has, to be an equivalent course to that of Master in Electronic?
6. 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 Master in M.E. (Microwave Engineering) 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 or resolution duly published. There is no such specific order or resolution duly published in the instant case whereby Master in M.E. (Microwave Engineering) can be accepted to be an equivalent subject to the subject specified under the advertisement.

7. In a catena of decisions of the Hon'ble Supreme Court, it has been repeatedly held that it is beyond the scope of judicial review in the course of exercising the writ jurisdiction for the course to draw equivalence of a particular qualification. According to the Hon'ble Supreme Court drawing of equivalence of a qualification is essentially the job of experts of their field and it is not for the Court to

entertain in those arena of comparing of two qualifications, unless there is a specific order, circular or notification of the State Government drawing equivalence, it would not be for this Court to decide whether the Master in M.E. (Microwave Engineering) can be treated as equivalent to Master in Electronic.

8. This Court therefore does not find a strong case made out by the petitioner for issuance of an appropriate writ at this juncture. The writ petition fails and is accordingly dismissed.
9. Though, Rejection of the writ petition would not preclude the petitioner from approaching the respondents/State for taking an appropriate decision for issuing an order of equivalence, if not for this recruitment, at-least for subsequent recruitment which the respondents may initiate.
10. Accordingly, the writ petition stands dismissed.

Sd/-

(P. Sam Koshy)
Judge