

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) No. 3995 of 2021**

1. Yeetesh Kumar, S/o Shri Yogeshwar Kumar, aged about 31 years, R/o House No.05, Village Chicha, Post Bathena, Thesil Patan, District Durg (CG)
2. Bhupendra Kumar, S/o Shri Gaidndal, aged about 33 years R/o Behind Jems Garage, near Kharkhara Canal, Post and Thesil Balod, District Balod (CG)

... Petitioners**versus**

1. State of Chhattisgarh, through Secretary, Department of Higher Education, Mantralaya, Mahanadi Bhawan, Naya Raipur (CG)
2. State of Chhattisgarh, through Secretary, Department of Rural Industry, Mantralaya, Mahanadi Bhawan, Naya Raipur (CG)
3. Chhattisgarh Public Service Commission, through its Secretary, Shankar Nagar Road, Raipur (CG)

... Respondents

For Petitioners	:	Mr. Vijay Pandey, Advocate.
For Respondent/State	:	Mr. Amrito Das, Addl. A.G.
For Respondent/CGPSC:		Mr. Anand Mohan Tiwari, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****09/08/2021**

1. Aggrieved by the decision dated 12.3.2021 (Annexure P-1), the present Writ Petition has been filed by Petitioners.
2. Vide the impugned decision, the representation of Petitioners, seeking the qualification which they possess, i.e., M.Sc. (Agriculture) in Entomology, be brought as an allied subject of Tusser Technology and Sericulture, has been rejected.
3. Respondent No.3-CGPSC published an Advertisement on 23.1.2019 for filling up of various posts of Assistant Professor. Two of the posts relevant for the disposal of the present Writ Petition are that of Assistant Professor (Tusser Technology) and Assistant Professor (Sericulture). The qualification under the Advertisement was Post Graduate in concerned subject from a recognized University with minimum of 55% marks. Petitioners herein are Post Graduates with

Degree of M.Sc. (Agriculture) in Entomology. Petitioners had applied for the said posts but were not found eligible since they did not have the requisite qualification. It is here that the Petitioners had requested the Respondent Authorities to consider their claim for incorporating M.Sc. (Agriculture) in Entomology as an allied subject of Tusser Technology and Sericulture.

Petitioners had initially filed a Writ Petition i.e. WPS No.1043/2021 and at their request the same was disposed of on 16.2.2021 directing the State Authorities to take an appropriate decision on the inter-departmental communication made on the subject matter to consider the essential qualification and the allied subjects for the post of Assistant Professor in two subjects of Tusser Technology and Sericulture. The said Writ Petition accordingly was disposed of directing the State Authorities to take an appropriate decision and it is in this context that the impugned decision dated 12.3.2021 (Annexure P-1) has been passed by the State Authorities rejecting the request of Petitioners for the same.

4. Learned Counsel for Petitioners refers to certain Certificates issued from the Department of Entomology College of Agriculture under the Indira Gandhi Krishi Vishwavidyalaya and also from the Department of Agricultural Entomology in Bidhan Chandra Krishi Vishwavidyalaya, and another document from the Gramodyog Department, in respect of his contention.

5. Contention of learned Counsel for Petitioners is that both the Tusser Technology and the Sericulture are an integral part of the courses in the Post Graduation in Agriculture Entomology. Therefore, it is the Petitioners who would be best suited for the aforementioned two posts of Assistant Professor in the subjects of Tusser Technology and Sericulture and the

rejection of their claim vide Annexure P-1 thus is arbitrary, illegal and without any substance.

6. Having heard the contentions put forth by learned Counsel for Petitioners, what is primarily to be appreciated is the fact that Entomology is a study of insects whereas Sericulture and Tusser Technology are related to silk farming or the rearing of silkworms for production of silk. The very meaning of the two reflects the huge difference between the two subjects i.e. the subject of Tusser Technology and Sericulture, as compared to the subject of Entomology.

7. Another aspect which needs appreciation at this juncture is that, subsequent to the issuance of the Advertisement on 23.1.2019, the State Government issued an Order on 13.2.2019 whereby various subjects were brought in as allied subjects to the various subjects under which the recruitment process was initiated. Based upon which, the Respondent-CGPSC also issued a Corrigendum publishing the same and permitting the candidates also who were qualified in the allied subjects for participating in the recruitment process. For the subject of Tusser Technology and also for the subject of Sericulture there were no allied subjects substituted or published. Petitioners therefore could not be further considered for recruitment and this was the reason why the impugned decision (Annexure P-1) has been made.

8. Another reason for which the impugned decision has been made is that the Advertisement or for that matter the Corrigendum cannot now be relaxed only for the Petitioners. If it is to be relaxed it would have to be relaxed for the whole recruitment process of Assistant Professor in Tusser Technology and Assistant Professor in Sericulture because, according to learned Additional Advocate General appearing for Respondent-State,

there could be many more similarly qualified persons who may not have got a chance to apply at the first instance.

9. There can be no dispute to the fact that so far as the equivalence of qualification is concerned, it is exclusively within the realm of the policy decision of the State Government. The High Court in exercise of its Writ jurisdiction cannot decide the question of equivalence. Petitioners at the first instance themselves ought to have challenged the Advertisement as also the Corrigendum that were issued, seeking for incorporating M.Sc. (Agriculture) in Entomology also as an allied subject of Tusser Technology and Sericulture. 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 from the case of "State of Rajasthan and Ors. Vs. Lata Arun" reported in 2002 (6) SCC 252. The same has further been reiterated in the case of "Guru Nanak Dev University Vs. Sanjay Kumar Katwal and Anr." reported in 2009 (1) SCC 610 wherein also the Hon'ble Supreme Court has in very categorical terms held that equivalence is a technical academic matter and it cannot be implied or assumed. 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 M.Sc. (Agriculture) in Entomology can be accepted to be an equivalent subject to the subjects specified under the Advertisement.

10. Learned Counsel for Petitioners at this juncture submits that this perhaps would be the last attempt for the Petitioners for Government employment as they are on the verge of getting age barred for further employment and therefore their case may be considered sympathetically.

11. The said submission of learned Counsel for Petitioners outrightly stands rejected, for the reason that sympathy would not be a parameter for deciding the eligibility of a candidate unless the rules provide and prescribe for the same and that the Petitioners would not be the only persons who would be getting age barred; there would be a large number of similarly placed other persons also.

12. The reliance of Petitioners upon the Certificates issued by the different Institutions and the opinion of the Gramodyog Department also would not be acceptable, unless the same are accepted by the Government and the Government issues a specific order in this regard treating the course to be equivalent and thereby making all the candidates with the Masters in Agricultural Entomology also eligible for participating for the posts connected to Tusser Technology and Sericulture subjects. The prayer of the Petitioners alone cannot be accepted in isolation and mere issuance of Certificate by the Institute would not come to the aid of the Petitioners.

13. Given the said facts as narrated in the preceding paragraphs as also the legal position as it stands, this Court does not find any strong case made out by Petitioners calling for an interference with the impugned decision of Respondents in declaring the Petitioners as disqualified for not having requisite qualification.

14. Writ Petition thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge