

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5029 of 2018

Asha Ram Sahu S/o Late Radhe Lal Sahu Aged About 36 Years R/o Village Kharkhena, Tahsil Takhatpur, District Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Health And Family Welfare Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Secretary, Higher Education Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
3. Dean Late Shri Lakhiram Agrawal Memorial Medical College Raigarh, Chhattisgarh
4. Chetanand Jangde S/o Shri G.R. Jangde, Medical Social Worker At Late Shri Lakhiram Agrawal Memorial Medical College, Raigarh, District Raigarh, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Kishore Narayan, Advocate
For State/Res.1,2 & 3	:	Mr. Kunal Das, PL
For Respondent no.4	:	Mr. Ankit Pandey, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

30.09.2021

1. The challenge in the present writ petition is to the Annexure P-1 & P-3 dated 09.07.2018 whereby the action on the part of the respondents in declaring the petitioner ineligible for appointment to the post of Medical Social Worker on the ground that petitioner does not have the essential qualification from the recognized University, the respondents have declared him ineligible, thus the present writ petition has been filed.
2. The facts of the case is that an advertisement was issued by the respondent authorities on 30.09.2017 for filling up of the post of Medical Social Worker where the essential qualification in terms of the advertisement for the said post was Masters in Sociology with minimum

55% of marks and Diploma in Medical Social Worker Course and or an M.Phil in any related subject. The petitioner having done his graduation, has done his masters Course in Sociology from the MATS University for the academic session 2012-13. That he has also done Masters in Social Work from the C. V. Raman University. The petitioner applied for the said post and was permitted to participate in the written examination where the petitioner cleared the same and he was the most meritorious candidate in the written examination and his name appeared at serial no.1 in the said list with 53 marks. However, when the impugned select list was published the name of the petitioner did not find place in the select list. The petitioner was vide another order issued on the same day on 09.07.2018 declared ineligible for not having the essential qualification from a recognized university.

3. This is the point of issue for considering before this Court where the qualification which the petitioner has is from the recognized university or not? Though, the learned counsel for the respondent no.4 contends that petitioner does not have the essential qualification under the advertisement and therefore he is not otherwise also entitled for being appointed for the said post. The objection of the respondent no.4 may not be relevant at this stage for the reason that this Court in the present writ petition is only testing the order by which the petitioner has been declared ineligible. The solitary ground of declaring him ineligible is the qualification to be not from a recognized university. There is no further ground available of which this Court would take cognizance of. His candidature has not been rejected on the ground of his not having the essential qualification rather it has been rejected only on the ground that it is not from a recognized university. Thus, it is for this reason that this Court has earlier

held that the only issue to be considered is whether his qualification is from the recognized University or not?

4. In support of his contentions, the counsel for the petitioner has produced ordinance i.e. Annexure P-5 which is a notification published in the Government Gazette on 13.07.2011 which clearly depicts that the MATS University, Arang, Raipur which is approved under Section 79 of the Chhattisgarh(Private University Establishment and Operation) Act 2005 having approval by the Chhattisgarh Private University Regulatory Commission, Raipur and is said to be notified and has come into force from the date of publication i.e. 13.07.2011.
5. In the said Gazette, the ordinance also discloses the course which have been granted recognition and at serial no.24 of the said list depicts M.A. Sociology (Master of Art in Sociology), that is the course which the petitioner has undertaken in the year 2012-13.
6. Counsel for the petitioner further has brought to the notice of this Court the recognition awarded to the universities and institutions offering various programmes through distance mode by the University Grants Commission. Serial No.38 of the said list issued by the UGC reflects the name of the State of Chhattisgarh and University i.e. the MATS University at Raipur. The type of university has been declared as a private University to the academic year of recognition has been reflected as 2009-2010 to 2013-2014 and the type of recognition is the institutional recognition which means the recognition given to the MATS University itself.
7. Further in the status of recognition, it clearly reflects that the distance education council had granted institutional recognition to offer programmes through the distance mode which are approved by the Statutory bodies. That the recognition granted was only for the period between 2009-2010 to 2013-2014. The remark column categorically

reflects that there was no recognition beyond 2013-2014. In the instant case since the petitioner had undertaken the course in 2012-2013, it clearly depicts that it was the time when the institution had the recognition for imparting the said course. These two documents by itself are prima facie sufficient to draw an inference firstly that the petitioner has done his M.A. in Sociology Course in 2012-2013. Secondly, the course is from the approved University under the Chhattisgarh Private Universities Act, 2005 and thirdly the University Grants Commission also has given an institutional recognition for the academic session 2009-2010 to 2013-2014 to the MATS University and it is then this period the petitioner had partaken the M.A. Sociology Course from the MATS University, Raipur.

8. Given the said facts and circumstances of the case, the decision of the respondents in so far as declaring the petitioner ineligible only on the ground that he does not have the qualification from the recognized university is concerned it is not acceptable and tenable and candidature of the petitioner is required to be reconsidered on its own merits in accordance with the guidelines for recruitment, subject to the petitioner fulfilling all other eligibility criteria which would be open for verification by the respondent authorities.
9. The writ petition therefore in the given facts deserves to be and is accordingly allowed and impugned order Annexure P-3 to the extent of declaring the petitioner ineligible for not having the qualification from the recognized university is set aside/quashed. As a consequence, the respondents are directed to reconsider the case of the petitioner on its own merits subject to the petitioner fulfilling all requisite essential qualification and eligibilities as prescribed under the advertisement.
10. Counsel for the petitioner submits that this Court awarded the interim order dated 07.08.2018 and had directed the respondents to keep

one post of Medical Social Worker vacant. In case if the respondents have one post of Medical Social Worker vacant, the claim of the petitioner can be considered against the said vacant post instead of removing the respondent no.4.

11. Let appropriate steps be taken by the respondents in this regard at the earliest preferably within a period of 90 days from the date of receipt of copy of this order.

12. With the above observations, this writ petition stands finally disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit