

HONOURABLE SRI JUSTICE P.NAVEEN RAO

**WRIT PETITION Nos.19395, 17336, 19227, 19490, 19247,
15754, 6454, 20789, 20365, 20129, 20124, 19902, 19758 of
2019**

Date: 07.04.2021

WP No.19395 of 2019:

Between:

B.Narendar Kumar, S/o Narasaiah,
aged 37 years, Occ: Head Master,
R/o. 2-8-288, Old Colony, Kaghaz Nagar Town
and Mandal, Kumram Bheem Asifabad District
and another.

.... Petitioners

And

The Telangana State Public Service Commission,
represented by its Secretary, Nampally,
Hyderabad and others.

.... Respondents

The Court made the following:

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION Nos.19395, 17336, 19227, 19490, 19247, 15754, 6454, 20789, 20365, 20129, 20124, 19902, 19758 of 2019

COMMON ORDER:

Heard learned counsel for petitioners, and learned Additional Advocate General for Telangana State Public Service Commission, for Social Welfare Department, and respondent-Educational Societies.

2. The Telangana State Public Service Commission (for short PSC) issued recruitment notification No.29 of 2017 dated 02.06.2017 calling for applications for recruitment for appointment as Principal (Schools) in the residential schools run by the respondent societies. Petitioners claim to have responded to the said recruitment notification. Petitioners were not subjected to further selection process on the ground that they do not have required teaching experience.

3. Learned counsel for petitioners submit that the decision of the PSC disqualifying the petitioners as *ex facie* illegal. According to learned counsel, acquiring teaching experience before or after Post Graduation or B.Ed., has no relevance to assess the ability of a candidate to work as Principal. It is contended that teaching experience gained as a School Assistant cannot be ignored. The School Assistants also teach secondary and upper secondary classes similar to Post Graduate Teachers. There are no posts of Post Graduate Teachers in the State Government service. Imposing such condition amounts to arbitrary exercise of power.

Such prescription has no nexus to the object sought to be achieved. It is illogical. It is aimed to reduce the competition. Further, teaching experience gained in a Degree College cannot be ignored. What is relevant is securing teaching experience. Petitioners have gained good teaching experience. Therefore, insistence on teaching experience after acquiring Post Graduation and/or B.Ed., and only as Post Graduate Teacher or as Lecturer in a Junior is *ex facie* illegal.

4. Learned Additional Advocate General justifies the decision of the PSC. He would submit that recruitment notification clearly requires Post Graduation and B.Ed., as essential qualifications and acquiring teaching experience after securing these degrees. He would submit that this very issue was considered by this Court in W.P.No.21185 of 2019 and overruled same plea and the issue raised in these writ petitions is covered by the said decision.

5. The educational qualifications and experience of petitioners is as under:

Sl. No.	W.P.No.	Name of the petitioner	Educational Qualifications	Experience	Reasons for rejection
1	19227/19	Ch. Padma	M.A. (English) B.Ed, (2008), P.G., DSLM	As Teacher from 2004-11, as principal from 2011-15	Less teaching experience after acquiring B.Ed.
2	15754/19	1.A. Shiresha Rani	B.Sc., (Maths) B.Ed.,	As School Assistant from 2005 to 2011, and Admn. Exp. for the period from 2013 to 2017 as Special officer	No teaching experience AFTER POST GRADUATION.
		2. Palle Anitha Devi	M.Com., (2012) B.Ed.,	As teacher from 2005 to 2010, and Admn. Exp. for the period from 2013 to 2016	Less teaching experience as experience prior to PG is not accepted.
		3.Seelam Padmavathi	M.A.,(English) B.Ed.,	As Teacher from 2006 to 2013 and Admn.Exp. from 2013 to 2017	Only 1 year 6 months teaching experience after acquiring P.G. in Dec., 2011.
		4.K.Rajini	M.A. (English) B.Ed.,	As teacher from 2007 to 2013, and Admn.exp. from 2013 to 2016	Only 1 year teaching experience after acquiring P.G. in 2012.

		5. Iqhra Kouser	M.Sc.(Chemistry) B.Ed.,	As PGT from 2007 to 2013, and Admn. Exp. from 2013 to 2017	Less teaching experience as experience prior to PG is not accepted.
		6. Shafiqa Farhath	M.A. Economics B.Ed.,	As School Asst., from 2007 to 2013, and from 2016 to 2017, and Admn. Exp. as Headmistress from 2013 to 2016.	Only 3 years 10 months teaching experience after acquiring PG in 2009
		7. Giri Jyothi	M.A. (English) B.Ed.,	As PGT from 2012 to 2017, and Admn. Exp. from 2008 to 2011 as Head Mistress.	Only 4 years 5 months teaching exp. after acquiring PG in 2012
		8. K.Renuka	M.A., Hindi HPT	As teacher from 2003 to 2009 and Admn. Exp. from 2009 to 2014.	Less teaching experience as experience prior to PG is not accepted.
		9. Marati Kavitha	M.Sc., Physics B.Ed.,	As Guest Teacher from 2007 to 2008, as Part time teacher from 2009 to 2011, as CRT Teacher from 2011 to 2013 and Admn.Exp. from 2013 to 2017.	Only 2 years teaching exp. after acquiring PG in 2013.
		10. V.Aruna Jyothi	M.A., English B.Ed.,	As teacher from 2007 to 2013 and Admn.Exp. from 2013 to 2017.	Less teaching experience as experience prior to PG is not accepted.
		11. K.Rajeshwari	B.Sc., Botany B.Ed.,	As Teacher from 2006 to 2008, and from 2011 to 2016, and Admn. Exp. from 2008 to 2011 as Principal.	Only 2 years teaching experience after acquiring PG in 2014
		12.K.Srinivas	M.Sc., Maths B.Ed.,	As teacher from 2007 to 2013 and admn. Exp. from 2013 to 2017 as H.M.	Less teaching experience as experience prior to PG is not accepted.
		13.A. Saritha	M.Sc., Physics B.Ed.,	As teacher from 2005 to 2010, and Admn. Exp. from 2013 to 2017.	Only 1 year 3 months teaching exp. after acquiring PG in 2009.
		14. P.Swapna	M.Sc., chemistry B.Ed.,	As teacher from 2005 to 2009 and as Jr.Lecturer from 2009 to 2012 and from June, 2013 to October, 2013 and admn. Exp. from 2013 to 2017 upto the notification as Spl. Officer.	Only 3 years 6 months teaching exp., after acquiring PG in 2009
		15. P.Sailoo	M.,Sc., Maths B.Ed.,	As teacher from 2007 to 2009, as Resource person from 2011 to 2012, as Jr. Lecturer from 2012 to 2014 and admn. Exp. from 2014 to 2017 as Principal .	Only 2 years teaching experience after acquiring PG in 2010
		16. M. Nagaraju	M.Com., B.Ed.,	As PGT from 2006 to 2014, and Admn. Exp. from 2014 to 2017 as Principal	Only 4 years teaching exp. after acquiring PG PG in 2010.
3	19395/19	1. B.Narender Kumar	B.Sc., B.Ed	As PGT for four years 9 months; and 3 years 4 months as Principal.	Less experience after acquiring P.G & B.Ed.,
		2.R.Ramakrishna	M.Sc., B.Ed.,	Teaching experience 5 years 2 months; Adm.Exp. as Principal for 3 years 10 moths	Less experience after acquiring P.G & B.Ed.,

4	19490/19	K.Swetha	M.A. (English)-2009; B.Ed.,-2012	2009-10 – Jr.Lecturer; 2010-14 – PGT (Eng.) 6/2014 to 5/2017 – Principal	After B.Ed., in 2010, less than 5 years. Service as Jr. Lecturer ignored since petitioner did not have B.Ed. by then.
5	17336/19	1. G. Indira 2.Poshanna Senigarapu 3. Shailaja Buvakar 4. B.Rajamouli 5. B.Saidaiah	M.Sc, (2010) B.Ed., (2003) B.Ed. (2003); MA (English) (2011) B.Ed. (2005); (M.Sc.) (2016) B.Ed., (2005); B.Sc., (2011); B.Ed., (2002); MA (Psychology) (2006); MA (English) (2016)	As Teacher from 2005-11, principal from 2011-14, lecturer from 2014-17. English Teacher from 2011 to 2017 and also worked as Principal. Worked as Teacher and as Principal from 2006. Worked as Mathematics teacher from 16.6.2005 to 16.6.2010 and as Head Master from 17.6.2010 to 30.06.2013. Worked as teacher from 12.6.2006 to 30.4.2012 and as Principal from 12.6.2013 to 23.4.2017.	Not having five years teaching experience as School Assistant after obtaining P.G. Less teaching experience after PG. Less teaching experience after PG. Less teaching experience after PG. Has less teaching experience after MA (English) in 2016. Psychology is not notified subject.
6	19247/19	1. M. Shakuntala 2. M.Bhagyasheela 3. Ch.Jannaiah 4. B. Srinivas 5. M.V.Kaleshwara Rao 6. P.Niranjan	M.Sc., (Maths) B.Ed., M.A. (English) B.Ed., M.A., (Economics) B.Ed., MA (History) B.Ed., MA (Economics) B.Ed., M.Sc., (Physics) B.Ed.,	As Lecturer in Degree college from 2005 to 2013 and admn. Exp. from 2013 to 2017 as Spl. Officer. As Part Time from 1998 to 2020, as Lecturer in college of Edu., from 2008 to 2011, and admn. Exp. from 2005 to 2007 as Head Mistress and as Principal from 2011 to 2015 and Lecturer from Dec., 2006 to June, 2017 . As PGT from 2008 to 2009 and 2013 to 2014, and as Lecturer from 2007 to 2013 and admn. Exp. from 2014 to 2017 upto the date of notification. As lecturer from 2005 to 2011 and admn. Exp. from 2012 to 2017 as Principal in college of education. As J.L., from 2002 to 2003, as Lecturer from 2009 to 2013, as Part time Teacher from 2013 to 2018 and admn. Exp. From 2014 to 2018 as Principal of college of education. As teacher from 2002 to 2003, as J.L., from June 2009 to Aug, 2010, as Lecturer from Aug, 2010 to Oct 2014 and admn. Exp. From 2003 to 2008 as Head Master, and	Teaching experience as Lecturer in College of education cannot be considered as valid teaching experience. Admn. Experience and teaching exp. in college of education cannot be considered and the teaching exp. Prior to PG also cannot be considered Only one year teaching experience after PG and no admn. experience Admn. Exp. and teaching exp. In college of education cannot be considered Only one year teaching experience after PG in Jr. College Only one year teaching experience after the PG and experience in college of education cannot be considered.

		7. E.Pramod Reddy	M.Sc., (Physics) M.Sc.(Computers) B.Ed.,	October, 2014 to 2018 as Principal in college of education. As Teacher from 2007 to 2014, as Lecturer from Dec, 2003 to June, 2005, and as Principal from 2006 to 2007 and as Principal from 2014 to 2017 in college of education.	Admn. Experience of only 2 years 9 months and teaching exp. as Lecturer in college of education cannot be considered as valid teaching experience.
		8. P.Venkateswarlu	MA (English) MSc (Maths) B.Ed.,	As Lecturer from 2012 to 2018 and Admn. Exp. from 2007 to 2012 as Head Master.	Teaching exp. from elementary teachers education institution cannot be considered.
7	6454/19	B.Swapna	M.A. (Sociology) – 2012; B.Ed., - 2008	Worked as H.S. Teacher - 5 years, 2 months, 28 days; as H.M. for 3 years 30 days	Teaching experience of less than five years after acquiring PG
8	20789/19	B.Jyothi	MA (English) (2011); B.Ed. (Maths & English) (2004)	Teaching experience as School Assistant from 2006 to 2012 and admn. Exp. as Principal from 2012 to till date of notification	Teaching experience prior to 2011 is not valid. Does not have required teaching experience.
9	20365/19	1) S.Raju	HPT (Hindi) (2012); M.A.(Hindi) (2005).	As PGT for five years, and Principal for three years	Not having five years experience after acquiring the Post Graduation as HPT; and Incharge Principal experience is not valid.
		2) M.Mahendra Chary	MA (English) (2012); B.Ed., (Maths)	Teaching experience from 2004 to 2011	Teaching experience prior to PG not valid
10	20129/19	Ranjith Babu M	MA (Sociology) (2003); B.Ed.,(2014)	As Teacher in High School from 2007 to 2013	Less teaching experience after B.Ed., (2014)
11	20124/19	D.Anuradha	MA (English) (2009); B.Ed., (2011)	As Teacher discharging as Jr. Lecturer from 2009 to 2014, and admn. Exp. As Junior college Principal from 2014 to 2017	Aggregate eligible experience is only 5 years instead of 8 years. Degree college experience (2015-2017) is not considered.
12	19902/19	D.Kalavathi	2015 – MA (Social Welfare); 2017 - M.A. (Telugu); B.Ed.,	As contract Resident Teacher from 2006 to 2013, as special officer (Principal) from 2013 to 2016	Not having the requisite five years teaching experience after PG in 2017. MA (Social work) is not prescribed subject.
13	19758/19	1) M.Swathi	M.A. (2009); M.Sc., (2016) B.Ed., M.Ed.,	As Teacher from June 2007 to August, 2012, and as Spl.officer (Principal) from 12.12.2013 to 25.10.2017	Not having 5 years of experience after acquisition of M.Sc., (Physics) and MA (Psychology) not prescribed subject.
		2)Shaik Saleemabi	M.Sc., (2015) B.Ed.,	As teacher from 2007 to 2012, and as Principal from 8.2.2013 to 11.7.2016	Not having 5 years teaching experience after P.G. in the year 2015.

6. From the above table, it is apparent that the petitioners do not have the teaching experience after acquiring Post Graduation and/or B.Ed., and as Post Graduation Teacher / Junior Lecturer

as required by the recruitment notification. Some of them have acquired teaching experience in a Degree College or as a School Assistant. Some of them acquired teaching experience before securing Post Graduation Degree and/or B.Ed. Degree. The petitioners have not challenged the recruitment notification. They have applied and participated in the selection process. Therefore, their eligibility has to be tested vis-à-vis the eligibility criteria specified in the recruitment notification.

7. Sub-paragraph (4) of Para-I specifies educational qualifications and experience. The table appended to sub-paragraph-4 is as under:

“4) Educational Qualifications:

Applicants must possess the qualifications from a recognized University as detailed below or equivalent thereto and experience as specified in the relevant Bye Laws/ Service Regulations indented by the Residential Educational Institutions Societies as on the Date of Notification.

Post code	Name of the Post	Educational Qualifications & Experience
1	Principal (School) in Telangana Residential Educational Institutions Society	A. Academic Qualifications: i) A second class Master's Degree (M.A./M.Sc/M.Com) or its equivalent from an institution recognized by the UGC, in the relevant (Annexure-A) school subjects for which the Post Graduate Teachers (PGT) are eligible with not less than 50% of marks in aggregate or its equivalent. ii) In case of SC/ST/BC/Differently abled candidates, the minimum marks shall be 45%. iii) A B.Ed or equivalent degree from an institution recognized by the NCTE with the Teaching Methodology in the concerned subject. B. Experience: iv) A total teaching experience of not less than (8) years including not less than (5) years as PGT/JL in any Government/Aided/ Government recognized High School/ Junior College and (3) years of administrative experience as Head Master/ principal of Government/Aided/ Government recognized High School/ Junior college C. Desirable Knowledge of Computer Applications.
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2	Principal (School) in Telangana Social Welfare Residential Educational Institutions Society.	
3	Principal (School) in Mahatama Jothiba Phule Telangana Backward Classes Welfare Residential Educational Institutions Society.	
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4	Principal (School) in Telangana Minorities Welfare Residential Educational Institutions Society	
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5	Principal (School) in Telangana Tribal Welfare Residential Educational Institutions Society.	

8. The academic qualifications prescribed are Post Graduation and B.Ed. It also requires that in B.Ed., the candidate must have methodology in the same subject which he studied in the Post Graduation. Further, it requires the candidate to be eligible to secure post of Post Graduate Teacher. As per the recruitment notification, a person must have experience as Post Graduate Teacher in High School or as Lecturer in a Junior College.

9. From the table in sub paragraph-4, it is seen that the notification mandates possessing educational qualifications (A) and experience (B). It makes amply clear that a candidate must have Post Graduation and B.Ed., in concerned methodology. The experience clause requires experience as Post Graduate Teacher/Junior Lecturer for at least five years after securing Post Graduation and B.Ed with same methodology. This clause does not make any distinction on possessing the educational qualifications prescribed in clause "A" for a Junior Lecturer. It is emphatic in insisting that the candidate must be eligible to become a Post Graduate Teacher. A person cannot become a Post Graduate Teacher unless he acquires Post Graduation and prosecutes B.Ed. Degree Course with the methodology in the subject of specialization in Post Graduation. Thus, mere becoming a Junior Lecturer is not sufficient. Perforce, a Junior Lecturer also should have Post Graduation and B.Ed (with same methodology) degrees.

10. A teacher has to teach subject of his specialization and training. By studying Post Graduation in a subject or two, person acquires specialization in that subject(s). That is not enough to be

successful as a Teacher in a High School. To be able to teach the students he must acquire the skill to teach the subject. He acquires such skill by studying B.Ed., with methodology in the same subject(s) he studied in Post Graduation. Thus, with Post Graduation and B.Ed., with same methodology, person can be able to acquire a command to teach the students on his subject of specialization and gains good experience. A Principal is required to perform administrative responsibilities and also required to teach. He should be a person to lead his team of teachers standing as an example. Thus, prescribing such requirement cannot be said as arbitrary and unconstitutional.

11. The employer, in his wisdom, wants only such candidates who can fulfill the eligibility criteria. It is discernible from subparagraph (4), the purpose and object of prescribing the relevant eligibility criteria i.e., good academic record, long teaching experience with in-depth knowledge on teaching methodology and administrative experience makes a person complete man to fit into the assignment as Principal effortlessly and lead his team.

12. It is also apparent that the employers are very clear in their mind on the eligibility criteria required by a candidate. It is the prerogative of the employer to prescribe eligibility criteria. In exercise of power of judicial review the Court cannot trench into the discretion of the employer to determine the qualifications required to a post, go into the validity of the qualifications prescribed, hold those qualifications are not valid and substitute the qualifications, what it may think proper. Court cannot also

hold the eligibility and/or experience gained by petitioners as equivalent/higher and rejection of their candidature as illegal.

13. The issue of eligibility vis-à-vis experience was considered by this Court in W.P.No.20104 of 2019. Having regard to the experience criteria prescribed in the recruitment notification, the Court upheld the decision of the Public Service Commission in not subjecting the petitioner therein for further selection process as the petitioner therein did not have requisite teaching experience after acquiring Post Graduation qualification even if the post of School Assistant was to be treated as equivalent. This Court held as under:

“6. Learned counsel for the petitioner placed reliance on the decision in **P.Ramachandra Rao Vs State of Karnataka** [(2002) 4 SCC 578] to contend that it is permissible to writ Court to undertake judicial legislation by interpreting the relevant provisions and remove the lacunae. In fact even by extending the same principle to the petitioner’s case, his experience as School Assistant is treated as valid, but as petitioner did not have Post Graduation before 2008 the primary requirement is not fulfilled by the petitioner.

7. Therefore, the teaching experience of the petitioner prior to 2008 cannot be treated as requisite teaching experience as per the recruitment notification. I therefore, do not see any error in rejecting the candidature of petitioner for further selection process, warranting interference by this Court”.

14. Scope of judicial review in matters touching recruitment to public employment is considered by the Full Bench of this Court in W.P.No.40157 of 2017 and batch in the judgment rendered on 18.09.2020. The opinion of Full Bench, to the extent relevant, reads as under:

“61. Judicial review of administrative action is core of our constitutional scheme and rule of law. It is all pervading and encompasses all aspects of Executive actions where rights of individuals are affected. However, scope of judicial review in matters touching recruitment to public employment is in a narrow compass. Judicial review on such aspects is confined to, whether any mala fide/arbitrary decision was taken to prescribe particular qualification only to favour a particular person(s), and/or such qualifications, though not at all required to hold the concerned post, but is prescribed in order to eliminate a person(s). And if there are illegalities in the selection process vitiating the selection. As long as the eligibility criteria and procedure of selection meets the mandate of Articles 14, 16 and 309 of the Constitution of India, and no illegalities are pointed out in the selection process, the scope of judicial review on the qualifications prescribed to a post, and the procedure of selection is limited one.

62. From precedent decisions of the Hon’ble Supreme Court on the scope of judicial review in matters of prescribing eligibility criteria, selection procedure and right of a candidate seeking public employment, the following principles can be culled out:

1. Article 14 or Article 16 of the Constitution of India neither exclude the laying down of selective tests, nor preclude the Government from laying down qualifications for the post in question. Such qualifications need not be only technical, but they can also be general qualifications relating to the suitability of the candidate for public service as such. [**State of Mysore v. P.Narasinga Rao**¹-paragraph 4].

2. The Courts should not usurp the function of determining the appropriate method of selection, and the relative weight to be attached to the various tests even in cases of proven or obvious oblique motive. That would be amounting to re-writing the rules; the courts should not undertake such an exercise. [**Lila Dhar Vs State of Rajasthan**²:Paragraph-9]

3. Matters relating to creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source/mode of recruitment and qualifications, prescribing additional or desirable qualifications, including any grant of preference, criteria of selection fall within the exclusive domain of the employer. The Court has no role either in determining the methodology of recruitment, or in laying down the criteria of

¹ AIR 1968 SC 349

² (1981)4 SCC 159

selection. It is the employer who is best suited to decide the requirements that a candidate must possess, according to the needs of the employer, and the nature of work. In the garb of judicial review, a Court cannot sit in the chair of the appointing authority, and decide what is best for the employer. Moreover, the Court cannot sit in appeal over the judgment of the employer, and ordain that a particular post be filled in a particular manner. The Court cannot lay down the conditions of eligibility. If the language of the advertisement and the rules are clear, the court cannot sit in judgment over the same. In such matters, the power of judicial review can be exercised only if it is shown that the action of the employer is contrary to any constitutional or statutory provision, or is patently arbitrary, or is vitiated due to mala fide. It is also not open to the Court to make comparative evaluation of the merit of the candidates. The Court cannot suggest the manner in which the employer should structure or restructure the cadres for the purpose of improving the efficiency of administration. [**Union of India v. Pushpa Rani**³: Paragraph-37]. [**Maharashtra Public Service Commission** (supra) : Paragraph-9].

4. Since the administrative authorities have experience in administration, the Court must respect this. Thus, the Court should not interfere readily with administrative decisions. The Court should not ordinarily interfere in policy decisions, unless there is clear violation of some constitutional or statutory provision (or the statute.). [**Dilip Kumar Garg v. State of U.P.**,⁴: Paragraph- 15]. There should be judicial restraint in administrative decisions. [**Tata Cellular v. Union of India [(1994) 6 SCC 651]**].

5. An enabling provision postulates a discretion which may or may not be exercised. The Court cannot find fault in exercising an enabling power in a particular manner. [**Zahoor Ahmad Rather and others Vs Sheikh Imtiyaz Ahmad and others**⁵: Paragraph-29]

6. Where an Executive action of the State is challenged, the Court must tread with caution, and not overstep its limits. The interference by the Court is warranted only when there are oblique motives, or there is miscarriage of justice. [**Pradeep Kumar Rai v. Dinesh Kumar Pandey**⁶: Paragraph- 21]

³ (2008) 9 SCC 242

⁴ (2009) 4 SCC 753

⁵ (2019) 2 SCC 404

⁶ (2015) 11 SCC 493

7. The recruitment notification merely amounts to an invitation to the qualified candidates to apply for recruitment. On their selection, they do not acquire indefeasible right to the post, even if all the vacancies notified are not filled up. [**Shankarsan Dash Vs Union of India**⁷: Paragraph- 7; **Mohd. Rashid v. Director, Local Bodies, New Secretariat and others**⁸: Paragraph-13].

8. In service jurisprudence, constitutional Courts should balance the equality principle with the principle of classification, dependent on the nexus for making the classification; this aspect is best left to the wisdom of the administrative authorities [**State of Uttarakhand Vs S.K.Singh**⁹: Paragraph-27].

9. If mode of selection is not prescribed by the rules, and there is no other impediment in law, it is permissible for the competent authority to lay down the norms for selection, such as holding tests, minimum benchmarks for written test as well as for viva voce. [**Ramesh Kumar v. High Court of Delhi**¹⁰: Paragraph-15]. Depending on the nature of the post, it is permissible to make selection based on performance in the interview. [**Kiran Gupta v. State of U.P.**,¹¹: Paragraph-26].

10. If classification is otherwise legal, valid and reasonable, it is not prohibited by Article 14 of the Constitution of India. [**State of Bihar Vs. Bihar State Plus-2 Lecturer Association and others**¹²: paragraph-14].

63. From the above presidential case law on all the four aspects it is, thus, safe to conclude that:

(a) & (b) xxx

(c) It is for the employer to prescribe procedure of selection for direct recruitment to public employment;

(d) xxx

e) The scope of judicial review in matters of prescribing qualifications, procedure of selection, and method of selection is very limited. The Writ Court cannot act as Court of appeal, and cannot determine what qualifications can be prescribed to hold a post; it cannot prescribe the procedure of selection to make regular

⁷ (1991) 3 SCC 47

⁸ (2020) 2 SCC 582

⁹ (2019) 10 SCC 49

¹⁰ (2010) 3 SCC 104

¹¹ (2000) 7 SCC 719

¹² (2008) 7 SCC 231)

recruitment. Only when there is patent illegality in the selection procedure/process would the writ Court interfere.”

15. In paragraph-92, the Full Bench held:

“92. it is for the employer to prescribe the qualifications required to hold a post. It is equally for the employer to prescribe the procedure for selection and to recruit the eligible and suitable persons for a post. Depending on the job description, the employer may stipulate educational qualifications, age, and experience. Posts in the higher echelons, specialized posts, posts in special establishments may require specialized qualifications, experience and only by a particular category of persons. **Thus, depending on the requirements of a job, appropriate qualifications/eligibility criteria may be prescribed. It is the prerogative of the employer. Judicial review cannot be stretched to oversee what qualifications, eligibility criteria, and mode of selection should be prescribed by the employer.**”

(emphasis supplied)

16. In the cases on hand, petitioners do not have the eligibility criteria notified by the employer.

17. Thus, there is no patent illegality in the decision of the Public Service Commission rejecting the candidature of petitioners for recruitment as Principals in the residential societies.

18. Writ Petitions fail. They are accordingly dismissed. Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 07.04.2021
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