

IN THE HIGH COURT OF ORISSA AT CUTTACK**W.P.(C). No.27295 of 2021**

(In the matter of applications under Articles 226 and 227 of the Constitution of India, 1950).

Sulochana Jena and Anr. *Petitioners*

-versus-

State of Odisha and Ors. *Opp. Parties*

Advocates appeared in the case:

For Petitioners : *Mr. D.N. Rath, Adv.*
& Mr. A. Mohanty, Adv.

-versus-

For Opp. Parties : *Mr. Biswajit Mohanty, SC*
(for S & ME Deptt.)

CORAM:
DR. JUSTICE S.K. PANIGRAHI

DATE OF HEARING:-25.08.2022

DATE OF JUDGMENT:-13.09.2022

Dr. S.K. Panigrahi, J.

1. The Petitioners in the aforementioned Writ Petitions have challenged the resolution dated 13.07.2021 issued by the Dept. of School and Mass Education, Govt. of Odisha (hereinafter 'S & M.E.') and the advertisement dated 13.08.2021 issued by Directorate of Secondary Education which prescribes minimum eligibility criteria for the recruitment of Contract Teachers for Hindi, Sanskrit, Urdu, and Physical Education in Government Secondary Schools of Odisha. The Petitioners allege that the criteria mentioned in the notification is illegal

and arbitrary as it deprives them of their candidatures for the above-mentioned posts.

I. FACTUAL MATRIX OF THE CASE:

2. The present Writ Petitioners are applicants for the post advertised vide Advertisement dated 13.07.2021 issued by Directorate of Secondary Education, Odisha. The Petitioners have completed their +2 course and a Bachelor's degree without Hindi as an elective subject. However, they possess 'Rashtra Bhasha Sastri (Hindi)' certification from Orissa Rashtrabhasha Parishad, Puri, and a 'Hindi Language Pandit Training Course' from Rayalaseema HPT College, Tirupati, Chittoor, Andhra Pradesh.
3. The S & M.E. passed a resolution No.12468/SME' dated 13.07.2021 prescribing the following eligibility criteria for the post of teachers in the secondary schools in the state of Odisha:

"1. Bachelor's degree from a recognized University with Hindi as one of the elective/Optional/Pass/Honours subject with minimum 50% marks in aggregate (45% for SC/ST/PWD/SEBC candidates)

And

One of the following training qualifications

- a) Hindi Shikshan Parangat from Kendriya Hindi Sanasthan, Agra*
- b) B.H.Ed., a course prescribed by NCTE, from a recognized University/Institution*

c) B.Ed. in Hindi, a course prescribed by NCTE, from Dakhin Bharat Hindi Pracher Sabha, Madras.

OR

2. Bachelor's degree from a recognized University with minimum 50% marks in aggregate (45% for SC/ST/PWD/SEBC candidates) with one of the following qualifications;

a) Rastrabhasa Ratna from Rastrabhasa Pracher Samiti, Wardha

b) Shastri (Hindi) from Orissa Rastrabhasa Parishad, Puri

c) Snataka (Acquired by June-2005, the date up to which the d) temporary recognition has been granted) from Hindi Sikshya Samiti, Orissa, Cuttack

And

One of the following training qualifications:

a) Hindi Shikshan Parangat from Kendriya Hindi Sanasthan, Agra

b) B.H.Ed, a course prescribed by NCTE, from a recognized University/institution

c) B.Ed. in Hindi, a course prescribed by NCTE, from Dakhin Bharat Hindi Pracher Sabha, Madras."

4. Pursuant to the above, the Director of Secondary Education, Odisha published an advertisement no.21212 dated 13.08.2021 inviting online applications from eligible candidates. As per the said notification, for the recruitment of Contract Teachers for Hindi, Sanskrit, Urdu, and Physical Education subjects against existing vacancies in secondary schools in the State were sought to be filled up through an open recruitment process.

5. The present Writ Petitioners challenge the impugned Advertisement No. 21212 dated 13.08.2021 for the recruitment to 2055 posts of Contract Teacher for Hindi Subject.
6. The thrust of the grievance in the Writ Petitions is that even after possessing requisite qualifications, the candidature of the petitioner(s) was not accepted by the authorities for the reason that *firstly*, their qualification(s) is not equivalent to an B.Ed. in Hindi, and *secondly*, not acquired from the institutions mentioned in the advertisement.

II. PETITIONERS' SUBMISSIONS:

7. Learned counsel for the Petitioner(s) earnestly made the following submissions in support of their contentions:
8. The resolution dated 13.07.2021 and the advertisement dated 13.08.2021 have restricted the additional training qualification to a few selected institution(s) i.e.,
 - a) *Hindi Shikshsan Parangat from Kendriya Hindi Sansthan, Agra*
 - b) *B.H.Ed, a course University/Institution prescribed by NCTE, from a recognized*
 - c) *B.Ed in Hindi, a course prescribed by NCTE, from Dakshin Bharat Hindi Prachar Sabha, Madras.*

9. In consequence, the petitioner(s) have been rendered ineligible to offer their candidature for the post of Contractual Hindi Teacher as they have acquired the 'Hindi Language Pandit Training Course' from Rayalaseema HPT College,

Tirupati, Chittoor, Andhra Pradesh which, according to the authorities, is not equivalent to B.Ed in Hindi and also, not acquired from the institutions mentioned in the advertisement.

10. The learned counsel for the Petitioners submit that the action of the Opposite Parties in not considering the equivalence of the course of BH.Ed from a NCTE recognized institute namely Rayalaseema HPT College, Tirupati, Chittoor, Andhra Pradesh for the purpose of this recruitment is illegal, arbitrary and contrary to NCTE, Regulation 2001 framed under Clause(d)(i) of sub-section 2 of Section 32 read with Section 12(d) of the NCTE Act 1993:

*“4. **Amendment of Recruitment Rules:** The existing recruitment rules may be modified between a period of three years so as to bring them in conformity with the qualifications prescribed in the Schedules. Meanwhile, teachers appointed as per the existing recruitment qualifications, subsequent to the issue of these Regulations, will be required to acquire qualifications as prescribed in the Schedules.*

SCHEDULE

LEVEL	MINIMUM ACADEMIC AND PROFESSIONAL QUALIFICATIONS
1. XXX XXX XXX	XXX XXX XXX XXX
2. Secondary/ High School	Graduate with Bachelor of Education (B.Ed) or its

	<i>equivalent.</i> OR <i>Four Years' Integrated B.Sc., B.Ed. or an equivalent course.</i>
3. XXX XXX XXX	XXX XXX XXX XXX

11. In this context, it was submitted that a candidate having Bachelor in Education or its equivalent from any NCTE recognized institution is eligible for being appointed to the post of Teacher in a Secondary/High School. The petitioner has the equivalent BH.Ed. qualification from a NCTE recognized institution namely Rayalaseema HPT College, Tirupati, Chittoor, Andhra Pradesh. Therefore, the rejection of her candidature is a gross violation of the provisions of the Regulation 2001.
12. Moreover, there is a stipulation in the statutory regulation, as stated above, to carry out necessary amendment or changes to the existing recruitment rules within a period of 3 years so as to bring it in conformity with the statute, no amendment whatsoever has been carried out by the authorities to the statutory rules so far. Ergo, the stipulations of the eligibility criteria prescribed in the impugned Advt. is not sustainable in the eye of law.

13. In course of their arguments, the petitioner also cites Regulation 2 and 4 of NCTE (Determination of Minimum Qualification for Persons to be recruited as Education Teachers and Physical Education Teachers in Pre-Primary, Primary, Upper Primary, Secondary. Senior Secondary or intermediate School or colleges) Regulations, 2014. Regulation 2 of the 2014 Regulations state that it shall be applicable for *“recruitment of teachers and Physical Education Teachers in any recognized school imparting Pre-primary, Primary, Upper Primary, Secondary or Senior Secondary or Intermediate Schools or Colleges imparting senior secondary”* wherein *“school”* shall also include *“A school established, owned and controlled by the Central Government, or the State Government or a local authority.”* Regulation 4 of the 2014 Regulations prescribes qualification for recruitment of teachers in *“Secondary/High School”* wherein it proposes *“Graduation or Post Graduation (or its equivalent) and Bachelor of Education (B.Ed.) from National Council for Teacher Education recognized institution”* to be a sufficient qualification.
14. It was submitted that admittedly no Rule whatsoever has been framed by the State Government to govern the process of recruitment of teacher to Secondary Schools. In absence of such Rule, the NCTE Regulation, 2014 will govern the field. Also, the aforementioned Govt. Resolution /Advt. being an

administrative instruction it is subservient and subject to the statutory provisions issued by the Central Govt. i.e., NCTE Act and the Regulations framed thereunder and in case of any conflict the statute framed by the Central Govt. has to prevail over the same.

15. In the present context, the Government resolution/ advertisement confining eligibility criteria of having BH.Ed. qualification from specific institutions runs contrary to the NCTE Regulation 2001 as well as 2014 and thus, it is not sustainable in the eye of law. The impugned notification/advertisement puts a limit in the scope of competition and thus meritorious candidates, including the Petitioner, who have obtained B.Ed in Hindi/Parangat or its equivalent qualification from other NCTE recognized institution have been deprived of participating in the process of selection for appointment to the advertised posts.
16. The learned counsel for the Petitioners buttress their argument by submitting that the Utkal University, Vani Vihar, Bhubaneswar, vide its notification bearing No.AC/Equi/750(P)2017/8115/2017 dated 27.03.2017 had notified & recognized the degrees of certain Universities/Institutions on recommendation of the Equivalence Committee. As per the said notification, the Hindi Language Pandit Training Course of Andhra Pradesh is

equivalent with BH.Ed course only for the year 2013-2014 & 2014-2015 which was recognized by the Utkal University. Therefore, the petitioners' candidatures should have been allowed on the pretext of equivalence of qualifications.

III. OPPOSITE PARTIES SUBMISSIONS:

17. Per *contra*, learned counsel for the Opposite Parties intently made the following submissions:
18. The present Writ Petition(s) is *prima facie* not maintainable and should be dismissed as the petitioners have challenged the right of the State as an employer to fix requisite qualifications for recruitment of Contractual Hindi Teacher and have made a claim to post(s) which they are not entitled. The petitioners do not have any legal right to compel the State as Employer to modify the prescriptions only because it does not suit to them
19. The counsel for the Opp. party submitted that, in order to ensure selection of engagement of good quality of candidates for the post of Teachers in Govt. secondary schools in the State; the School and Mass Education Department, Government of Odisha passed a Resolution 12468/SME Dt. 13.07.2021 specifying requisite qualifications for recruitment of teachers in Govt. Secondary Schools. Pursuant to this, the Director, Secondary Education, Odisha, published Advertisement No.21212 dated 13.08.2021 inviting online

applications from eligible candidates for recruitment of Contractual Teachers for Hindi, Sanskrit & Physical Education subjects against existing vacancies in Government Secondary Schools in the State.

20. It was vehemently argued that the present writ petitioners have no cause of action to approach this Hon'ble Court under Article 226 of the Constitution of India. The petitioners have acquired Hindi Language Pandit Training Course from Andhra Pradesh; an institution not included in the list of institutions in the aforesaid notification/advertisement. Inexorably, they are not eligible to apply for the post of Contractual Hindi against the relevant Govt. Resolution as well as advertisement.
21. In Para-5(B) of the advertisement, the qualifications prescribed for the post of Hindi Teachers is very clear and unambiguous. There is no scope in the advertisement to accept any training qualification other than the three prescribed therein. Therefore, the question of accepting any other training qualification on the ground of equivalence does not arise.
22. The counsel also alluded that the law is well settled that in catena of decisions by the Supreme Court where it has been frequently held that the change in eligible criteria for the purpose of recruitment has been held to be a policy decision

of the Government and the same cannot be interfered by the Court. Likewise, it is a well settled principle of law that it is for the state to decide eligible criteria and cannot substitute the requirement on their assessment of what the requirement should be. Therefore, the claim of the petitioner for modifying of Clause-5(B) of the Advertisement dated 13.08.2021 should not be entertained.

23. In rebuttal to petitioners' reliance on the NCTE Regulations, 2014 prescribing qualifications for Teaching Posts in Secondary Schools, it was submitted that the prescriptions in the NCTE Regulations, 2014 are minimum and generic in nature. When it comes to the specific qualifications for separate teaching posts the State Government has every right as employer to prescribe the specific qualification in the light of NCTE Regulations not less than the minimum qualifications prescribed by the NCTE.
24. The counsel also provided instances wherein Government Educational Institutions have appropriately digressed from the NCTE Regulations:
 - a. While the NCTE Regulations prescribe the minimum academic qualifications as Graduation/Post Graduation or its equivalent with 45% marks, Kendriya Vidyalaya Sangathan under Govt. of India, prescribes a Bachelor's Degree with at least 50%

marks in the concerned subject/combination of subject and also in aggregate for the post of TGT (Hindi).

b. Navodaya Vidyalaya Samiti, under Govt of India, prescribes a Bachelor Degree from a recognised university with at least 50% marks in the concerned subject/combination of subject and also in aggregate for the post of TGT (Hindi).

25. Against the Petitioners' reliance on the equivalence certificate dated 27.3.2017 issued by the Utkal University, it was submitted that Utkal University may have the authority to take a decision on equivalency of different degrees, but for recruitment, the State being the employer, it has the powers to prescribe conditions and the eligibility criteria for recruitment to civil posts. Ergo, the equivalence certificate is irrelevant to the recruitment pursuant to impugned advertisement dated 13.08.2021.

26. Finally, it was submitted that the selection process pursuant to impugned advertisement dated 13.08.2021 has been completed in December 2021. Some vacancies remained unfilled due to non-joining or non-availability of eligible candidates. Those unfilled vacancies have been carried forward and clubbed with new vacancies. These vacant posts

have been advertised on 23.12.2021 for another recruitment, the process for which is going on at present. So, there is no vacancy available as such, beyond the vacancies notified in the current recruitment.

IV. ISSUES FOR CONSIDERATION:

27. After having heard learned counsels for both sides, the following issues arise for consideration before this Court:

- A. Whether the impugned notification/advertisement goes against NCTE guidelines, 2014? If so, would NCTE guidelines supersede the rules formulated by the state?
- B. Should this court interfere into the state recruitment procedure and scrutinize the eligibility criteria mentioned in the impugned notification and Para-5(B) of the advertisement?
- C. Whether the petitioner be allowed their candidature on the basis of equivalence of qualification?

V. ISSUE A: Whether the impugned notification/advertisement goes against NCTE guidelines, 2014? If so, would NCTE guidelines supersede the guidelines formulated by the state?

28. Education as a field of legislation is included in List 3 (concurrent list) of the 7th Schedule to the Constitution of India. As per Article 246 of the Constitution, both the

Parliament and the Legislature of a State may make laws with respect to 'Education'. The effect of Article 254 is that if a State enacted law is repugnant to a Central legislation, the State law, to the extent of repugnancy shall be void.

29. Para 5(b) of the impugned advertisement requires a candidate to have an additional qualification along with the basic qualifications mentioned in the NCTE Regulations, 2014. A State law may supplement a Central law (*Ram Chandra Marwa Lal, Varanasi v. State of Uttar Pradesh*¹. The Federal Court in *Shyamakant Lal v. Rambhajan Singh*², declared that the real test of repugnancy is whether or not the two legislations can stand together. If they can, there is no repugnancy.
30. In this context, reference can be made to the decision of the Supreme Court in the case of *Kanaka Gruha Nirman Sahakara Sangha v. Narayanamma*, (2003) 1 SCC 228 (Paras - 10-12), where it was held that a Central law is not intended to cover the whole field, a state legislation can supplement the Central law without contradicting the latter. The NCTE prescribed minimum qualification and the requirement of having an additional training course/qualification can both stand together. The State Rules merely legislate in an uncovered field.

¹ 1984 Supp SCC 28 (Paras - 40B, 45-52)

² AIR 1939 FC 74 (Para - 83)

31. Notwithstanding, the petitioner(s) have also argued that the impugned notification/advertisement is merely an administrative instruction which, in absence of legislative rules of recruitment, shall be superseded by NCTE Regulations, which are statutory in nature. This court is unable to accept this contention. This Court, in this context, has referred to the judgment of the Supreme Court in *B. N. Nagarajan vs State of Mysore*,³:

*"It would be convenient to deal with this argument at this stage. Mr. Nambiar contends that the words "shall be as set forth in the rules of recruitment of such service specially made in that behalf " clearly show that till the rules are made in that behalf no recruitment can be made to any service. We are unable to accept this contention. First it is not obligatory under proviso to art. 309 to make rules of recruitment, etc., before a service can be constituted or a post created or filled. This is not to say that it is not desirable that ordinarily rules should be made on all matters which are susceptible of being embodied in rules. Secondly, the State Government has executive power, in relation to all matters with respect to which the Legislature of the State has power to make laws. It follows from this that the State Government will have executive power in respect of List II, Entry 41, State Public Services. It was settled by this Court in *Ram Jawaya Kapur v. The State of Punjab*(1) that it is not necessary that there must be a law already in existence before the executive is enabled to function and that the powers of the executive are*

³ (1966) 3 SCR 682

limited merely to the carrying out of these laws. We see nothing in the terms of art. 309 of the Constitution which abridges the power of the executive to act under art. 162 of the Constitution without a law. It is hardly necessary to mention that if there is a statutory rule or an act on the matter, the executive must abide by that act or rule and it cannot in exercise of the executive power under art. 162 of the Constitution ignore or act contrary to that rule or act.”(Emphasis added)

32. It is not in dispute that NCTE is a statutory body which has been empowered to ensure, inter alia, that the teachers appointed in the schools, primary, upper primary and secondary, across country, have a minimum level of qualification. The NCTE Regulations, 2014, prescribing minimum qualifications for candidates aspiring to be teachers of Govt. Secondary Schools, is a piece of Central delegated legislation. No doubt, the State Legislature could not have made any legislation or any delegated legislation inconsistent with or in derogation of the NCTE Notification. Neither the S&M.E. nor the Director of Secondary Education, Odisha has done so. The requirement in para 5(B) of the impugned advertisement is in addition to the requirement prescribed by the NCTE Regulations, 2014 and supplements the requirements contained in the NCTE Regulations. There is no repugnancy between the said legislations.

33. It is important to note that the NCTE Notification prescribes, '*minimum qualifications*' of teachers. It is not intended to be exhaustive. It is merely a guideline which provides that candidates not possessing the minimum qualification prescribed by it, will not be eligible for appointment as Secondary Teachers. In my considered view, this would not prevent the State Legislatures from prescribing additional or specific criteria which a candidate must meet for being eligible for appointment as Secondary Teacher. This, in my view, is an entirely reasonable requirement. After all, unless a candidate is reasonably proficient in speaking, reading and writing in the language which he has chosen as the medium of instruction, he would be unable to communicate with the students successfully or to effectively discharge his/her role and duties as a teacher. In my view, there is no conflict between the NCTE Notification and the Recruitment Notification/Advertisement. Both the NCTE Notification and the Recruitment Rules framed by the Board can stand together. Hence, the said provision in the impugned notification/advertisement cannot be said to be repugnant to the NCTE Notification.

VI. ISSUE B: Should this court interfere into the state recruitment procedure and scrutinize the eligibility criteria mentioned in

the impugned notification and Para-5(B) of the advertisement?

34. Before scrutinizing the impugned eligibility criteria mentioned in the aforementioned notification/advertisement, the court finds it imperative to inquire into its role and responsibility vis-à-vis the issue of state recruitment.
35. Within this frame of reference, the Delhi High Court in ***Ghanshyam vs D.S.S.B.***⁴, held that:

“This Court can also not lose sight of the fact that while examining the decision making process undertaken by the respondent No. 1, in prescribing minimum qualifying marks, it normally ought not to interfere in the criteria laid down merely because another decision would have been fairer or more justified, as long as the standards set by the respondent No. 1 are uniformly applied to all the candidates.”

36. Moreover, in ***Nilangshu Bhusan Basu vs Deb K. Sinha & Ors***⁵, the Supreme Court held that:

“In absence of any rules to that effect, it would be an administrative function of the appointing/ appropriate authority to take a decision as to which method should be adopted for recruitment on any particular post. It may depend on various factors relevant for the purpose e.g. status of the post, its responsibilities and job requirement, the suitable qualifications as well as the age as may be desirable may also be taken into

⁴ 2007 SCC OnLine Del 1574

⁵ (2001) 8 SCC 119

consideration while making such an administrative decision. “

37. In ***Zahoor Ahmad Rather & Ors. v. Sheikh Imtiyaz Ahmad & Ors.***⁶, The Apex Court orated that:

“While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The State is entrusted with the authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision-making. The state as a public employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these are essentially matters of policy. Judicial review must tread warily. That is why the decision in Jyoti K.K. (supra) must be understood in the context of a specific statutory rule under which the holding of a higher qualification which presupposes the acquisition of a lower qualification was considered to be sufficient for the post. It was in the context of specific rule that the decision in Jyoti K.K. (supra) turned.”

38. In this connection, a decision reported by the Supreme Court in ***State of Andhra Pradesh and another vs Sadanandam and***

⁶ (2019) 2 SCC 404

*others*⁷, has been relied upon. It has been observed as also quoted in the impugned judgment:

"...We need only point out that the mode of recruitment and the category from which the recruitment to a service should be made are all matters which are exclusively within the domain of the executive. It is not for the judicial bodies to sit in judgment over the wisdom of the executive in choosing the mode of recruitment or the categories from which the recruitment should be made as they are matters of policy decision falling exclusively within the purview of the executive. The question of filling up of posts by persons belonging to other local categories or zones is a matter of administrative necessity or exigency...."

39. It is a settled law that Courts should not ordinarily interfere with the procedural qualifications prescribed by the authorities. In *Mallesh Korukoru v. State of Telangana*⁸, the High Court of Telangana declared that:

".....

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

....

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 1989 SCR (3) 342

⁸ W.P.No.40157 of 2017 and batch

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

40. In *Fertilizer Corporation Kamgar Union (Regd.), Sindri v Union of India*⁹, the Supreme Court observed:

".... We certainly agree that judicial interference with the administration cannot be meticulous in our Montesquien system of separation of powers. The court cannot usurp or abdicate, and the parameters of judicial review must be clearly defined and never exceeded. If the directorate of a government company has acted fairly, even if it has faltered in its wisdom, the court cannot, as a super auditor, take the Board of Directors to task.

This function is limited to testing whether the administrative action has been fair and free from the taint of unreasonableness and has substantially complied with the norms of procedure set for it by rules of public administration."

41. From the aforementioned citations, it is clear that the Writ Court cannot determine what qualifications can be prescribed to hold a post; it cannot prescribe the procedure of selection to make regular recruitment. Only when there is patent illegality in the selection procedure/process would the writ Court interfere.

⁹ (1981) 1 SCC 568

42. In this case, this Court doesn't believe that the recruitment procedure in hand is ridden with any of such despicable vices which shall render it illegal. Ergo, the court doesn't find it appropriate to meddle in the affairs of the executive at this instance.

VII. Issue C: Whether the petitioner be allowed their candidature on the basis of equivalence of qualification?

43. The judicial review has no place to determine the ambit and equivalence of qualification and, thus, even assuming that the Hindi Pandit Course degree is equivalent to a BH.E.D degree, that is something to be left to the experts and the employing authority.

44. In this behalf, the observations in *Zahoor Ahmad Rather(supra)* have been relied upon to the following effect:

*"26.The prescription of qualifications for a post is a matter of recruitment policy. The State as the employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. Similarly, **equivalence of a qualification is not a matter which can be determined in exercise of the power of judicial review.** Whether a particular qualification should or should not be regarded as equivalent is a matter for the State, as the recruiting authority, to determine..."*
(Emphasis supplied)

45. In the case of *Maharashtra State Board of Secondary and Higher Secondary Education vs Paritosh Bhupeshkumar Sheth*¹⁰, the Supreme Court further stated that:

"29. Far from advancing public interest and fair play to the other candidates in general, any such interpretation of the legal position would be wholly defeasive of the same. As has been repeatedly pointed out by this court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day today working of educational institutions and the departments controlling them. It will be wholly wrong for the court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or byelaw which would bring about the result of rendering the system unworkable in practice. It is with connected mattersunfortunate that this principle has not been adequately kept in mind by the High Court while deciding the instant case."

46. From the ratio of the decisions noted above, it is clear that the prescribed eligibility qualification(s) for recruitment to any

¹⁰ (1984) 4 SCC 27

State service are matters to be considered by the appropriate authority. It is not for Courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.

47. Even if the Courts are to take the initiative to decide the equivalency of qualifications, the case presented by the Petitioners is not very satisfactory. The fact that Utkal University has, in past, considered the equivalency of the aforementioned degrees doesn't not affect the recruitment policy of the State in any manner. Ergo, for this instant case, the decision of the employing authority i.e., the Opposite Parties shall be final.

VIII. Conclusion:

48. As such, the impugned advertisement is legal, fair and in consonance with the NCTE Regulations, 2014. The Opposite Parties have not committed any illegality, nor have they promulgated the impugned advertisement in a manner which renders it discriminatory against anyone or in discordance with the statutory provisions, the Constitution or the present position of law.
49. It is also trite in law that interference by the Judiciary in a policy decision having financial or policy implications and/or having a cascading effect is not at all warranted and justified.

50. In light of the aforesaid discussion and having regard to the present position of law, I have no hesitation in coming to the conclusion that the Writ Petitioners cannot be granted any relief by way of a Writ and the present Writ Petition is liable to be dismissed.

51. Accordingly, this Writ Petition is dismissed.

(Dr. S.K. Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 13th of September, 2022/B. Jhankar

