

HIGH COURT OF ORISSA : CUTTACK

W.P.(C) No.2292 of 2014

An application under Articles, 226 and 227 of the Constitution of India.

Smt. Sasmita Sahoo Petitioner.

Versus.

State of Orissa and others Opp.parties

For petitioner : Mr. K.K.Swain, Advocate

For opp.parties : Mr. Sangram Jena,
Standing Counsel, SC, S&ME
(for O.P.Nos.1 to 3)

Mr. Tarananda Pattanayak
Advocate
(for O.P.No.4-University)

PRESENT

THE HON'BLE SHRI JUSTICE MRUGANKA SEKHAR SAHOO

Date of Hearing :28.03.2022 : Date of judgment: 06.05.2022

M.S.SAHOO, J. This matter is taken up through Hybrid mode.

2. The writ petition has been filed by the petitioner challenging the order dated 18.01.2014 (Annexure-4) passed by opposite party no.3, District Education Officer, Khordha.

The operative portion of the said letter is quoted herein:-

“You are hereby directed to submit equivalent certificate from Hindi Sikshyan Parangat for Kendriya Hindi Santhan, Agra/B.H.Ed from Utkal University/HTTC from B.S.E.(O), Cuttack as to B.Ed. course in Hindi awarded by Dakshina Bharat Hindi Prachar Sabha, Madras by 31st January-2014 positively, failing which steps will be taken for cancellation of your engagement which has been issued to you vide this office order No.10805 dated 27.09.2013.”

3. The petitioner essentially has challenged the portion of the letter which proposes for cancellation of the engagement of the petitioner that was issued by the self-same office of the District Education Officer, Khordha vide order No.10805 dated 27.09.2013 (Annexure-2).

The order dated 27.09.2013 is quoted herein:

*“DISTRICT EDUCATION OFFICE, KHORDHA
ENGAGEMENT ORDER
No.10805/ Date: 27.09.2013.*

On execution of an agreement dated 27.09.2013 between Sri/Smt./Kumari Sasmita Sahu, W/o. Ganeswar Sahu, At-Haladipada, P.O.Baradandi, Via-Bolagarh, Dist-Khordha and District Education Office, Khordha, S. Sahu is hereby engaged as a Contract Teacher (Hindi) in Sagargaon H/S for a period w.e.f. the date of his/her actual joining upto the end of February-2014 on fixed monthly remuneration of Rs.9300/- subject to the following terms and conditions:-

- 1. The teacher shall be engaged in classes by the Headmaster as assigned to other teachers.*
- 2. He/She will work under the administrative control of the Headmaster In charge of the school to which he/she is assigned. He/She shall perform duties as will be entrusted to him/her by the concerned Headmaster.*
- 3. He/She may be assigned any other work by the District Education Officer or any other authorities decided by Government in School & Mass Education Department from time to time.*
- 4. He/she shall attend training programme as fixed by Government from time to time.*
- 5. He/she shall must complete OTET on 31.03.2015 felling which his/her contract will not be renewed.*

*R.M. Panda
District Education Officer,
Khordha.*

Memo No.10806 dated 27.09.2013

Copy forwarded to the person concerned for information and necessary action. He/she is directed to join the post on 03.10.2013 positively, falling which this engagement order shall stand cancelled automatically.

*District Education Officer,
Khordha.*

Memo No.10807 dated 27.09.2013

Copy forwarded to the Headmaster/Headmistress, Sagargaon H/s. information and necessary action. He/she is requested to verify the original certificates/documents, medical certificate, character certificates etc. at the time of joining & keep a Xerox copy of the said documents for official records.

The date of joining of the person concerned may please be intimated to this office immediately.

*District Education Officer,
Khordha."*

4. While issuing notice in the matter vide order dated 10.02.2014, the interim order was passed, which is quoted herein for reference:-

"As an interim measure, it is directed that if the petitioner is still continuing as Hindi Teacher in Sagarguan High School in the district of Khordha, she shall not be disengaged till next date."

5. Counter affidavit on behalf of opposite party no.3 has been filed sworn to by the District Education Officer, Khordha dated 04.05.2016. Though no counter affidavit has been filed on behalf of opposite party no.4-University, learned counsel appearing for opposite party no.4 produces a letter dated 13.01.2014 issued by the Assistant Registrar to the Controller of Examinations, Utkal University along with a memo, which is taken on record.

6. To consider the rival contentions, the conditions of eligibility as mentioned in the advertisement for engagement of Contract Teachers in Govt. High Schools, Odisha 2013-14 (Annexure-1) have to be considered. Internal page-2 of the advertisement (page-11 of the writ petition) provides as follows:-

"(d). As regards eligibility of candidates for engagement of contractual teachers, he/she must have obtained Bachelor's degree in Arts, Science along with a degree of Bachelor of Education from a recognized University. The University must have recognized by NCTE and equivalency declared by the Universities of the State) for being considered as Trained Graduate Teacher."

(underlined to supply emphasis)

7. Perusal of the eligibility conditions provided in the advertisement (Annexure-1 as quoted above) for engagement of contractual teachers indicates :

- (i) he/she must have obtained Bachelor's degree in Arts, Science along with a degree of Bachelor of Education from a recognized University;
- (ii) the University must have been recognized by NCTE;
- (iii) equivalency declared by the Universities of the State) for being considered as Trained Graduate Teacher.

The rival contentions raised at the bar revolves around the interpretation of the above conditions and whether the petitioner as a candidate satisfies the conditions.

8. Learned counsel for the petitioner submits that the appointment order as at Annexure-2, was issued to the petitioner considering her educational qualification as well as training qualification required for contractual teacher and there was no occasion for issuance of Annexure-4 by the self-same authority.

It is further submitted, assuming that the authority can seek further clarification regarding qualification of the petitioner, the petitioner's training qualification as a teacher, i.e., "B.Ed. in Hindi Medium with specialization of Hindi teaching method from Dakshin Bharat Hindi Prachar Sabha, Madras" has been recognized by the National Council for Teacher Education (for short 'NCTE') and after grant of recognition by the NCTE, the eligibility criteria as quoted above is satisfied from the advertisement.

9. To indicate the grant of recognition by the NCTE, the petitioner has relied upon the letter of the NCTE dated 19.09.2013 enclosed to the writ petition marked as Annexure-7. The relevant extract of the letter is reproduced herein for reference:-

"...

Sl.	Information Sought	Remarks
-----	--------------------	---------

No.		
After completing B.Ed in Hindi Medium with specialization of Hindi teaching method from Dakshin Bharat Hindi Prachar Sabha, Madras can one be appointed as a Hindi teacher in Hindi sector Yes/no with reason.	Yes after completing B.Ed in Hindi Medium with specialization of Hindi teaching method from Dakshin Bharat Hindi Prachar Sabha Madras, one can be appointed as a Hindi teacher in Hindi Sector as SRC, NCTE has granted recognition to the above said institution.	

...”

(underlined to supply emphasis)

10. Learned Standing Counsel for the School and Mass Education Department, relying on the counter affidavit submits that the petitioner does not possess the requisite qualification for the post of Contract Teacher (Hindi). In support of his contentions, he relies on paras-8 and 9 of the counter affidavit dated 04.05.2016, which are reproduced herein for reference:-

“8. That the Contractual engagement of Smt. Sahoo has been made wrongly, even though she does not possess the requisite qualification for the post of Contractual Teacher (Hindi) as stipulated in the advertisement.

9. That, it is learnt that, the B.Ed. Degree in Hindi of Smt. Sahoo from Dakshina Bharat Prachar Sabha, Madras had not submitted equivalency certificate from Hindi Sikshyan Parangata for Kendriya Hindi Sansthan Agra/B.H.Ed. from Utkal University/HTTC from BSE(O), Cuttack which does not satisfy the qualification prescribed in the above said advertisement”

11. In response, learned counsel for the petitioner referring to the advertisement at Annexure-1 as quoted above, particularly to the eligibility, submits that petitioner’s teacher training qualification is recognized by the NCTE as per the letter dated 19.09.2013 (Annexure-7) and as required by the advertisement, the equivalency of the degree has been declared by “an University

of the State”, i.e., the Berhampur University, Berhampur, by letter dated 05.02.2014 (Annexure-16: enclosed to the rejoinder).

12. In the writ petition, the equivalency certificate issued by University of the State (Berhampur University) to another candidate, has also been enclosed which is marked as Annexure-11.

13. Learned counsel for opposite party no.4- University relying on the letter dated 13.01.2014 issued by the Asst. Registrar submits that the process of declaration of the equivalence of the teacher training qualification was initiated way back in 2014, though he has no up-to-date instruction but in all likelihood, the declaration could have been made by now.

14. Learned counsel for the petitioner submits that the instruction of the University submitted through the learned counsel, fortifies the contentions that the teacher training degree is equivalent, but again it is reiterated that Berhampur University being a University of State that would suffice the equivalence certificate granted by the Berhampur University, which is adequate enough to meet the requirement of the advertisement.

15. Learned Standing Counsel submits that the specification in the advertisement that the University must have been recognized by NCTE and equivalency declared by the Universities of the State for being considered as Trained Graduate Teacher and the requirement may not be strictly applicable to the petitioner’s case, i.e., the petitioner cannot take help of the said requirements.

16. Learned Standing Counsel relies on the decision of the Hon’ble Supreme Court in ***Devender Bhaskar and others v. State of Haryana: 2022(1) OLR SC 64 :: 2021 SCC OnLine SC 1116*** to buttress the point that equivalence of qualification is a matter for the State as recruiting authority to determine. Decision of the Government regarding equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standards and practical

attainments of such qualification and is based on the recommendation of an expert body-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.

17. In considered opinion of this Court, the proposition of law as argued by the learned Standing Counsel has to be accepted. But that not help the contentions raised by the State in their counter affidavit and submissions for the following reasons :

the petitioner is found to be qualified as per the eligibility conditions provided in the advertisement as summed up in paragraph-7 above.

18. The more important aspect is that the Expert Body like the State University-Berhampur University has declared the equivalence and the National Counsel for Teacher Education has granted recognition to the Dakshin Bharat Hindi Prachar Sabha, Madras as far as the B.Ed. degree is concerned. As a matter of fact this Court has not gone into the concept of equivalence of a degree as the same is not required for adjudication.

19. The learned counsel for the petitioner submits that the eligibility criteria cannot be read in such a manner so as to make it differentially applicable to different categories of applicants, more so, in a single advertisement for similar kind of posts.

It is submitted that the reading of the eligibility criteria should not end up in discriminating the different candidates by categorizing them into different groups which cannot be the object of a recruitment process.

20. It is also brought to the notice of this Court that the petitioner is continuing in her present post for about nine years and her performance has been up to the mark, as assessed by the superior authority and during pendency of the writ petition, the Utkal University has also processed the matter for declaration of equivalence of the degree.

21. In view of the aforesaid discussions, in considered opinion of this Court, it has to be held that the petitioner has the required Teacher Training Degree, which has been declared equavalant by an University of State, the Berhampur University, the matter has been actively considered by the Utkal University and to add to that though not specifically indicated in the impugned order under Annexure-4, the National Council for Teacher Education, (a statutory body of the Govt. of India, Southern Regional Committee) has granted recognition to the Dakshin Bharat Hindi Prachar Sabha, Madras for granting B.Ed. in Hindi Medium with specialization of Hindi teaching method, a course undertaken by the said institution.

The order passed by the opposite party no.3 as at Annexure-4 being devoid of merit is set aside.

22. The petitioner shall continue in her engagement as Contract Teacher (Hindi) as per the order dated 27.09.2013 (Annexure-2) issued by opposite party no.3, District Education Officer, Khordha.

23. The writ petition is allowed accordingly. However, in the facts and circumstances of the case there shall be no order towards costs.

.....
M.S.Sahoo,J.