

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.1613 of 2015

Kumar Gourab Mohapatra Petitioner

-versus-

State of Odisha & Ors. Opposite Parties

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
18.07.2022**

Order No

03.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. B.B. Mohanty, learned counsel for the Petitioner and Mr. B. Mohanty, learned Standing Counsel for the State.

3. The Petitioner is aggrieved by the rejection of his application, wherein his selection as Physical Education Teacher pursuant to the advertisement issued under Annexure-2 on 27.10.2014 was rejected on the ground that the Petitioners have secured less than 45% mark in their +2 examination.

4. Mr. Mohanty, learned counsel for the Petitioner brought to the notice of this Court, the advertisement issued under Annexure-2, wherein the prescribed qualification for appointment to the post of Physical Education Teacher is indicated in Clause-(g). It is submitted that for selection to the post of PET the Prescribed qualification is :-

+2 or its equivalent examination with minimum 50% marks in aggregate (45% for SC/ST/OBC/SEBC candidates) and CPED from recognized Board/ University.

OR

Degree / Post Graduate Degree in Physical Education i.e. B.P.Ed / M.P.Ed. a (course prescribed by NCTE) from a recognized University / Institution.

(To ensure that untrained candidates will get the training within the stipulated period minimum percentage of marks is prescribed as per the guidelines of NCTE).

5. It is further submitted that a candidate who possess the qualification of Degree / Post Graduate in Physical Education, he is not required to secure any prescribed percentage of mark in his +2 examination.

6. A bare perusal of the said clause, nowhere indicates for a candidate with having Degree / Post Graduate in Physical Education i.e., B.P. Ed. / M.P.Ed for securing any percentage of mark in his +2 examination. This Court while issuing notice of the matter on 13.05.2015 has passed an interim order by allowing the Petitioners to take part in the selection process and it is further indicated that the result of the petitioners shall be kept in a sealed cover which shall be subject to final outcome of the matter.

7. A Counter Affidavit has been filed in Court today. Relying on the stand taken in the said counter, Mr. Mohanty submitted that the minimum cut-off marks of 50% in the entry level academic qualification was prescribed by the State in the recruitment of teacher in 2014-2015 for the first time. This was done keeping in view similar prescriptions in Teacher

qualifications prescribed by NCTE. It is accordingly submitted that since the Petitioner does not possess the required 50% mark in +2, his application has been rightly rejected.

8. Heard learned counsel for the Parties.

9. In the rejection list annexed vide Annexure-3 to the Writ Petition, the Petitioners' application were rejected on the ground that they have not secured 45% of mark in their +2 examination. But no such prescription is there in the advertisement issued under Annexure-3, for a candidate, who possesses the qualification of degree / Post Graduate degree in physical education. There is no dispute that the petitioner possesses the qualification of B.P.Ed. and the documents in support of that have been annexed vide Annexure1-Series. Since there is no prescription to secure any percentage of mark in +2 examination for a candidate who possesses the qualification of B.P. Ed. / M.P.Ed, the rejection of the petitioners' application on the ground that he has not secured 45% of mark in +2 examination cannot be accepted.

10. Since pursuant the order passed by this Court, the Petitioner has been permitted to take part in the selection process and the same shall be subject to the outcome of this writ petition, this Court while disposing the Writ Petition directs the District Education Officer-Opposite Party No.4 to take a decision on the Petitioner's claim and if it is found that the Petitioner is eligible for his appointment, then without insisting on the stipulation that he has not secured 45% of mark in +2 examination, provide them with the order of appointment. The entire exercise shall be completed within a period of three months from the date of receipt of this order.

11. The Writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha

