

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

226

CWP-34925-2019

Date of Decision: 18.11.2022

ANNU KUMAR AND ANOTHER

... Petitioners

VERSUS

MAHARSHI DAYANAND UNIVERSITY AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Raj Kapoor Malik, Advocate
for the petitioners.

Mr. Shreenath A. Khemka, Advocate
for respondent No.1.

Mr. Pankaj Mulwani, DAG, Haryana
for respondent No.2.

None for respondents No.3 to 5.

Mr. R.K. Malik, Sr. Advocate with
Mr. Sandeep Dhull, Advocate
for respondent No.6.

VINOD S. BHARDWAJ, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India, 1950 seeking issuance of a writ in the nature of Quo Warranto seeking a declaration that respondent No.6 – Krishan Kumar son of Narain Sharma is usurper to the post of Assistant Professor in the stream of Physical Education as he does not fulfill the essential qualification prescribed by the University Grants Commission for the abovesaid post. A further prayer has been made for seeking issuance of directions to the respondents to take legal action against the respondent No.6 in accordance with law.

Briefly summarized, the facts of the present case are that an advertisement had been published by the respondent No.3-Sant Jinda

Kalyana College, Kalanaur which is a Government aided private college and service conditions of its employees are governed by the Haryana Affiliated Colleges (Security of Service) Act, 1979 and the rules framed thereunder, for various posts including the post of Assistant Professor in Physical Education. Various persons including the petitioner had applied for the said post. As per the criteria, a total of 10 marks were prescribed for the qualification of Degree of Doctorate/National Eligible Test (NET). It is averred that one Rajesh Kumar had sought information under Right to Information Act, 2005 (hereinafter referred to as RTI Act) from respondent No.4-Bundelkhand University, Jhansi (U.P.) with regard to the Doctorate qualification of respondent No.6 and was informed that there was no such student with the name of Krishan Kumar son of Narain Sharma who had undergone Doctorate in Physical Education during the period/session 2011-14 and that no Ph.D. was conducted in the said subject by their University.

The present writ petition has been filed by the petitioners challenging the appointment of respondent No.6 being based upon a fake Degree of Doctorate.

Written statement on behalf of the respondents No.1 and 2 has been filed. Learned counsel for the respondent No.6 did not opt to file a separate reply and adopted the response filed by the respondents No.1 and 2. They have taken a specific stand that the entire case of the petitioners is founded on the information obtained under RTI Act by one Rajesh Kumar. The said information obtained under RTI Act is doubtful as it bears no mark of authenticity from the University concerned. It is further averred that the answering respondent No.1- M.D. University, Rohtak had itself got the Degree of respondent No.6 verified from Bundelkhand University, Jhansi and

was in receipt of a memo No.BU/COM/18/3580 dated 15.03.2018, as per which they have informed that the Degree of Doctorate of respondent No.6 has been verified and the same was found to be correct. It is further averred that the requirement under the advertisement of the post of Assistant Professor was that a candidate should either possess a Degree of Doctorate or should be a NET qualified and that the respondent No.6 had also cleared the UGC NET Examination held on 29.12.2013 under Roll No.72470254. Hence, he fulfills the eligibility criteria for the post of Assistant Professor. The Selection Committee had rightly awarded 10 marks to the said candidate for the qualification held by him.

The Joint Director General, Higher Education, Haryana i.e. respondent No.2 in its reply has submitted that selection has been rightly carried out in accordance with applicable rules and subject to the candidate fulfilling the requisite qualification. Respondent No.2 also reiterated that an inquiry was undertaken to verify the authenticity of the Degree of Doctorate of respondent No.6 and the same was found to be genuine and duly authenticated by the respondent No.4- Bundelkhand University, Jhansi. It is also contended that the information sought under RTI Act (Annexure P-3) is claimed to be supplied to Rajesh Kumar, who had himself submitted a complaint and same grounds and the same had been withdrawn.

I have heard the learned counsel for the respective parties and have gone through the record with their assistance.

Learned counsel for the petitioner has vehemently argued that the respondent No.6 did not fulfill the requisite qualification and has been wrongly given the marks for Doctorate whereas no such course was run by Bundelkhand University, Jhansi as per the information supplied to him under

RTI Act. If such marks are deducted, respondent No.6 would be lower in merit.

Per contra, the stand of the respondent-Department is that the respondent No.6 possesses a valid Degree of Doctorate and that the Bundelkhand University, Jhansi has itself verified the authenticity and genuineness of the said qualification. Additionally, in any case the UGC-NET qualification/eligibility held by the respondent No.6 is not the subject matter of dispute. Thus, it cannot be said that the respondent No.6 does not possess the essential eligibility requirement prescribed by the UGC for the post of Assistant Professor. Inquiry into the authenticity of the Degree of Doctorate of respondent No.6 has already been undertaken and the same has been found valid. Therefore, there is no occasion to impugn the selection/appointment of respondent No.6 on the post of Assistant Professor in Physical Education.

Furthermore, it is also argued that the Bundelkhand University, Jhansi has also informed M.D. University, Rohtak that it never provided any information under RTI Act to said Rajesh Kumar. Thus, the primary foundation of the petitioners is itself disputed and much reliance cannot be placed thereon.

The stand adopted by respondents No.1 and 2 has remained uncontroverted and no rejoinder has been filed. This Court has no reason to come to any other conclusion and to disbelieve and disregard the written statement filed by way of an affidavit and duly reiterated during the course of hearing. The respondent No.6 would be eligible for the said post despite Ph.D. as he qualified UGC-NET. No other argument has been raised. The

arguments of the petitioners are without force and are not established from the evidence on record.

Consequently, the present petition is dismissed at this stage.

18.11.2022
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No