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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-80-2016 (O&M)

Date of Decision: 27.07.2023

Gursimar Vatish

. . . . Petitioner

Vs.

State of Punjab and another

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Vivek Sharma, Advocate
 for the petitioner.

Ms. Shivani Sharma, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. By way of present Writ Petition, the petitioner assails the action of the respondents in not considering his candidature for appointment on the post of Physical Education teacher.
2. Learned counsel submits that the petitioner possesses B.Ed with one of the teaching subjects as Physical Education.
3. He submits that since his one of the subjects in B.Ed course is Physical Education, petitioner has to be treated as having qualification of advance physical training course degree as required for appointment in terms of the Advertisement dated 17.12.2015 (P-4). It is submitted that the action of the respondents is arbitrary and unjustified.
4. *Per contra*, learned counsel for the respondents points out that the qualification required under the advertisement dated 17.12.2015 for recruitment of 800 posts of Physical Education teacher were as under:

“2. (i) Graduate from a recognized university with training in advance physical training course degree or diploma.”

5. Learned counsel submits that the qualification thus required was either Bachelor of Physical Education (B.P.Ed) or Diploma in Physical Education (D.P.E). The qualification possessed by the petitioner of B.Ed with one of the teaching subjects as Physical Education is not equivalent to B.P.Ed. The NCTE has already prescribed the said qualifications which are binding on each Government while appointing teachers of a particular subject. The courses of B.P.Ed and B.Ed with physical education also are different. The curriculum for both the courses has been prescribed separately by the NCTE. In view of above, the petitioner's candidature was rejected.
6. I have considered the submissions.
7. The NCTE lays down the qualifications for appointment of teachers in various faculties. As per the said guidelines, the qualification required for appointment as a physical education teacher would be B.P.Ed or Diploma in Physical Education. With reference to the teachers who are to be appointed in different categories of schools, the qualification of B.Ed is sufficient for a regular teacher. The petitioner has one of the teaching subjects in B.Ed as physical education. However, that would not make him to be a teacher eligible for providing physical education. The norms of NCTE have to be strictly complied with as held by the Supreme Court in ***Maa Vaishno Devi Mahila Mahavidyalaya vs. State of U.P. and others, (2013) 2 SCC 728***, wherein it held as under:

“80. In Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya the view of this Court was that the State Government has no role whatsoever. However, in Bhartia Education Society it was stated that the role of the State Government was limited to the manner of admission, eligibility criteria, etc.

without interfering with the conditions of recognition prescribed by NCTE. The exercise of discretion by the State Government and affiliating body has to be within the framework of the Act, the Regulations and conditions of recognition. Even in St. Johns Teachers Training Institute the Court stated that the State Government or the Union Territory has to necessarily confine itself to the guidelines issued by NCTE while considering the application for grant of "no-objection certificate". Minimisation of the role of the State at the second stage can also be justified on the ground that affiliation primarily is a subject-matter of the university which is responsible for admission of the students laying down the criteria thereof, holding of examinations and implementation of the prescribed courses while maintaining the ed standards of education as prescribed.

82. We are constrained to reiterate with emphasis at our command that the prescribed schedules under the Regulations and the judgments must be strictly adhered to without exceptions. None in the hierarchy of the State Government, university, NCTE or any other authority or body involved in this process can breach the schedule for any direct or indirect reason. Anybody who is found to be defaulting in this behalf is bound to render himself or herself liable for initiation of proceedings under the provisions of the Contempt of Courts Act, 1971 as well as for a disciplinary action in accordance with the orders of the Court. In Parshavanath Charitable Trust v. All India Council for Technical Education, decided on the same date, this Court held as under: (SCC para 26)

"26... Time schedule is one such condition specifically prescribed for admission to the colleges. Adherence to admission schedule is again a subject which requires strict conformity by all concerned, without exception. Reference in this regard can be made to Rajan Purohit v. Rajasthan University of Health Sciences at this stage, in addition to Medical Council of India v. Madhu Singh²²."

83. Undoubtedly, adherence to the schedule achieves the object of the Act and its various aspects. Disobedience results in unfair admissions, not commencing the courses within the stipulated time and causing serious prejudice to the students of higher merit resulting in defeating the rule of merit."

8. In view of above, the petitioner's qualification of B.Ed with teaching subject of Physical Education is not equivalent to B.P.Ed and is

insufficient for the purpose of considering petitioner eligible for the appointment as a physical education teacher.

- 9. The action of the respondents in not considering the candidature of the petitioner is therefore found to be in order.
- 10. No interference of this Court is therefore warranted.
- 11. Accordingly, the present Writ Petition is dismissed.
- 12. Pending application(s), if any, also stands disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

July 27, 2023

Mohit goyal

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |