

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5923 of 2022

1. Deepak Kumar Singh S/o Bindeshwari Prasad Singh R/o Village and P.O.- Paroria, P.S.- Ujiyarpur, District- Samastipur, presently working as Senior Secondary Teacher (Computer Science), at M.R.R. High School Narghoghi, Sarairanjan, Samastipur.
2. Kanhaiya Jee S/o Permanand Prasad R/o Adarsh Colony, Road No.1, Khemani Chak, Patna, presently working as Senior Secondary Teacher (Computer Science), at RMG High School Khamhar Begusarai.
3. Santosh Kumar Bharati S/o Baidyanath Bharati R/o Village- Bhojpurwa, P.O.- Teknwas, via- Sidhwalia, District- Gopalganj, presently working as Zila Parishad Uchch Madhyamik Teacher at Rajkumar and Laljee High School Barhonia Sangrampur, Munger.
4. Vidya Sagar Singh S/o Krishna Nandan Singh R/o Village- Ring Bandh, Lakhsmana Nagar, Ward No.17, P.O., P.S. and District- Sitamarhi, working as Zila Parishad Uchch Madhyamik Teacher at Project R.N. Jha, Girls High School, Gudhma, Sarairanjan, Samastipur.
5. Kundan Kumar S/o Arbind Kumar Chaudhari R/o Village- Sunder Khauli, P.O.- Basua, Via- Katra, District- Muzaffarpur, working as Zila Parishad Uchch Madhyamik Teacher at High School Rajnagar, Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Education Department, Government of Bihar, Patna.
4. The Bihar Public Service Commission through its Chairman, 15, Jawahar Lal Nehru Marg (Bailey Road), Patna- 800001.
5. The Joint Secretary-cum-Controller of Examination, Bihar Public Service Commission, Patna.
6. The National Council for Teacher Education, through its Member Secretary, G-7, Sector 10, Dwaraka, New Delhi.

... .. Respondent/s



Appearance :

For the Petitioner/s : Ms. Vagisha Pragya Vacaknavi, Advocate
For the Respondent/s : Mr. Apurva Kumar, AC to GA-12
For the B.P.S.C. : Mr. Zaki Haider, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-10-2024

The petitioners are Senior Secondary School Teachers, who challenged the qualification prescribed for Head Masters as per Bihar State Senior Secondary School, Headmaster (Appointment, Transfer, Disciplinary Proceeding and Service Condition) Rules, 2021 (for brevity 'Rules of 2021'). The Rules of 2021 prescribed the qualification of B.Ed./B.A.Ed./B.Sc.Ed. from recognized institutions for appointment as a Headmaster in a Senior Secondary School.

2. The petitioners contend that the requirement is arbitrary and violative of the fundamental rights guaranteed under Articles 14 and 16 of the Constitution of India, since the technical education qualification of M.C.A acquired by the petitioners, before their employment as teachers in different Senior Secondary Schools, is not given equal status as B.Ed./B.A.Ed./B.Sc.Ed. It is also prayed that clause 3 (iii) of Advertisement No.02/2022 of the Bihar Public Service



Commission in consonance with the Rules of 2021, calling for appointments to 642 posts of Head Masters in Higher Secondary Schools, is arbitrary for reason of exclusion of the technical educational qualification acquired by the petitioners.

3. The petitioners are admittedly teachers in computer, who have been so appointed without the mandatory qualification of B.Ed. required for other Senior Secondary School Teachers. It is also the contention of the petitioners that those other teachers who did not have B.Ed./B.A. Ed./B.Sc.Ed.; teachers training qualification, were appointed to the post of Higher Secondary School Teachers, by virtue of the Bihar Zila Parishad Secondary and Senior Secondary Teacher (Employment and Service Condition) Rules, 2006, whereby the untrained teachers were allowed to be appointed and continued in employment on condition that they obtain the B.Ed. training qualification within five years. In addition to the ground of arbitrariness, in prescription of the teachers training qualification for the post of Head Master, the writ petitioner's claim that the higher qualification in the M.C.A. acquired by all of them should be considered equivalent to the teachers training qualification. The further contention is also that the other teachers who were granted duty leave with pay and allowances,



had acquired the B.Ed. qualification while in service; which benefit was denied to the teachers appointed in the subject of computers. There is no rationale behind such discrimination, is the argument.

4. We were not convinced that the prescription of a teacher's training qualification, is in any manner arbitrary, especially for the post of Headmaster. We also have to observe that when the required qualification for a Senior Secondary School Teacher is B.Ed., there is absolutely no rationale in the submission that such essential qualification for the post of Headmaster in the same school is arbitrary. Further, we also notice the judgment of the Hon'ble Supreme Court in ***J. Ranga Swamy v. Government of Andhra Pradesh and Others; (1990) 1 SCC 288***, wherein it has been held that the Courts cannot consider the relevance of qualifications prescribed for various posts or to assess the comparative merit of such qualification. It is not for the Courts to decide and direct as to what should be the qualifications prescribed for a post in question, since it is in the exclusive domain of the appointing authority; in the instant case, the State. It is hence, not within the powers of this Court to consider equivalency between M.C.A. and a teacher's training qualification; which in any way cannot be equated.



5. Merely because M.C.A. is a postgraduate qualification, it cannot be termed as a higher qualification insofar as a teachers training qualification is concerned. Teachers training qualification, which is a B.Ed./B.A.Ed./B.Sc.Ed. inculcates the necessary requirements in discharging the functions of a teacher; which is distinctly different from a mere qualification in a subject, whether it be in science or arts. We also respectfully refer to ***Devesh Sharma v. Union of India 2023 SCC Online SC 985*** in which the Hon'ble Supreme Court found that for imparting education to elementary students, even a B.Ed. qualification would not suffice and it would require a teacher training qualification in elementary education.

6. With the above principles in mind, we passed an order dated 12.02.2024, which we extract hereunder:-

After hearing the matter for sometime, we were not impressed with the submission of the learned counsel for the petitioners that the computer teachers are discriminated or treated differently insofar as appointment as headmasters, which could only be with a qualification of B.Ed.

2. *Prima facie*, we do not find any reason to interfere with the stipulation of B.Ed qualification for selection and appointment of headmasters. However, a submission was made by the petitioners that while other teachers were granted leave to acquire teachers training qualification, the petitioners who are computer teachers were not granted such leave as per Memo No. 229 of



10.02.2021.

3. We would like the Government Advocate to get further instructions as to what is the essential qualification for teachers to be appointed, who were simultaneously appointed with the petitioners in other subjects. Whether they should have a B.Ed qualification for appointment as a teacher and if not, whether the teachers in service were given leave for the purpose of acquiring the teachers training qualification.

4. Post on 12.03.2024.

7. In compliance of the above direction, the respondent-State has filed a supplementary counter affidavit dated 13.03.2024. It is the submission of the State that the petitioners were appointed as computer science teachers in their respective schools in the year 2016, when the Bihar Zila Parishad Secondary and Senior Secondary Teacher (Employment and Service Condition) Rules, 2006 prevailed. The essential qualification for appointment as a teacher, was prescribed at Rule 4 of the Rules of 2006, which includes a B.Ed. degree from a recognized training institution, before implementation of the National Council for Teacher Education Act, or a B.Ed. degree from an institution recognized for training by the NCTE; after the implementation of the NCTE Act. This is an essential qualification, which was required for appointment to the post of a Zila Parishad Secondary School Teacher, and Zila Parishad Senior Secondary School Teacher



respectively. However, B.Ed. was not a necessary qualification for appointment to the post of computer teacher, as is clear from Annexure-P/4 and P/6. In Annexure-P/6, it is also clearly stated that for a subsequent promotion, the incumbent will have to acquire B.Ed. or an equivalent degree.

8. Insofar as the appointment of other teachers B.Ed./B.A.Ed./B.Sc.Ed. was an essential qualification and the un-trained candidates were appointed only on the undertaking that they would acquire a B.Ed. qualification within five years. For acquiring such qualification, the Government enabled leave with allowances, however, with the rigor of a bond of undertaking that after acquisition of the qualification, the incumbent teacher will continue in service for a minimum period of five years; failing which the entire pay and allowances of the leave period were to be refunded.

9. Hence, the stipulation was in the context of the absence of enough candidates having the teachers training qualification, for appointment as senior secondary teachers, in which context the relaxation was made for appointing untrained teacher. Only to embellish their teaching skills and also to ensure that the essential requirement of a teachers training qualification is obtained, to guarantee that they attain the



necessary skills required for a teacher, the Government provided for a relaxation; with the condition of acquiring such qualification within five years. The duty leave to acquire such qualification with pay and allowances was also, only on the condition of the bond of undertaking, to serve in the incumbent post for five years, which ensures that the skills acquired by the acquisition of teachers qualification percolates to the students and thus, embellish the nation building process. We find absolutely no reason to fault the policy of the Government.

10. The further contention is insofar as discrimination visited on the computer teachers for reason of not being permitted duty leave for the purpose of acquiring the higher qualification. In this context, we have to specifically notice that the appointment of the computer teachers without teachers training qualification was only since there was no teacher training qualification, in computer science. The teachers so appointed were not required to acquire the teachers training qualification within five years, for continuance. The computer teachers appointed were also aware that they have to acquire the teachers training qualification for promotion.

11. The earlier counter affidavit filed on behalf of the third respondent, specifically indicated that the NCTE had



permitted such appointment of computer teachers, without the teachers training qualification, only in the context of there being no teachers training qualification in the subject of computers. In fact, Annexure-6 as produced in the writ petition, which is dated 07.07.2013, clearly provided that with respect to such computer teachers, for the purpose of promotion, they should acquire the teachers training qualification. The supplementary affidavit filed by the State pursuant to our interim order also points out that there was sufficient opportunity for the petitioners to acquire a B.Ed. qualification, even through an online distance learning mode.

12. The requirement of B.Ed. was not there for appointment of a computer secondary teacher, appointed to teach computer science. There was no need for a relaxation to appoint untrained teachers or a further condition that the continuance of the untrained teachers will be only on acquisition of a teachers training qualification; for which purpose duty leave was sanctioned to the others, with the condition of a five year bond of undertaking of continued service after the acquisition of the qualification. The senior secondary teachers appointed in the subject of computer science and the senior secondary teachers appointed in the other subjects cannot be



treated as equals. Treatment of un-equals as equals is anathema to Articles 14 and 16 of the Constitution of India.

13. We find absolutely no reason to accept the contention of either arbitrariness in the prescription of qualification or the ground raised of equivalence of M.C.A. with the teachers training qualification and even discrimination alleged insofar as duty leave having not been granted to the petitioners. We find absolutely no reason to entertain the writ petition and reject the same, making it clear that if the petitioners seek for leave without allowances for the purpose of B.Ed., then the Government may consider such applications, at its discretion. The writ petition stands rejected with the above reservation.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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CAV DATE	
Uploading Date	05.10.2024
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