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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3345 OF 2024
(Parag Prakashrao Deshmukh and Others Vs. The State of Maharashtra
and Others)

WITH

WRIT PETITION NO.5800 OF 2024
(Rahul Gangadharrao Dhawale and Another Vs. The State of
Maharashtra and Others)

Mr.VB.Dhage h/f S.V.Bhopi and Mr.A.D.Shinde, Advocates for the
Petitioners in respective Petitions.

Mr.S.K.Tambe, R.K.Ingole, AGPs' for the Respondent/State.

Mr.A.R.Nikam, Advocate for Respondent No.5.

(CORAM : RAVINDRA V. GHUGE AND
Y.G.KHOBRADE, JJ.)

DATE : JUNE 20, 2024

PER COURT :

1. In so far as the second Petition is concerned, the same
Petitioner was before us in Writ Petition No.1758/20214. We had
issued notice in the said matter on 12.02.2024. The Petitioners chose
to withdraw the Petition on the ground that a fresh Petition
incorporating subsequent events would be filed. This Petition which is
now filed, has not incorporated any subsequent events, since no such
subsequent events have occurred. This Petition, therefore, cannot be
entertained and the same is disposed off.

2. In so far as the first Petition is concerned, the Petitioners pray that an equivalence be granted to the Bachelor of Computer Application, vis-a-vis Bachelor of Computer Science/Bachelor of Information Technology. The subjects in the syllabus of both these degree courses are practically identical, is the contention.

3. The learned Advocate Mr.Nikam, while opposing the Petition, has placed on record a compilation of judgments. In **Indresh Kumar Mishra and Others Vs. State of Jharkhand and Others [2022(12) SCC 42]**, the Hon'ble Supreme Court has held in paragraph No. 6.5 as under :-

“6.5 As per the settled proposition of Law, in the field of education, the Court of Law cannot act as an expert normally, therefore, whether or not a student/candidate is possessing the requisite qualification should better be left to the educational institutions, more particularly, when the Expert Committee considers the matter.”

3. In **Navnath and Others Vs. the State of Maharashtra and Others** (Coram : V.V.Kankanwadi and Y.G.Khobragade, JJ.) [2022 DGLS (Bom.) 3991], this Court took a view that qualifications for appointment to the post of Teachers is within the domain of experts and

an equivalence cannot be granted by the Court and no qualifications can be prescribed by the Court. We are in agreement with this view.

4. In **Maharashtra Public Service Commission Vs. Ruchita Vasant Somane** [2023 (DGLS) Bombay 1520], this Court has recorded in paragraph Nos. 26 and 27, as under :-

“26. Resultantly, we are of the considered view that in absence of challenge to the Recruitment rules, the Tribunal could not have ventured into the aspect of equivalence. It was incumbent for the Respondent No.1 to scrupulously satisfy the eligibility criteria prescribed in the rules and advertisement. The Tribunal has erroneously determined equivalence between the faculty changed eligibility test and Bachelors degree in Sanskrit when the Recruitment Rules do not use the words “or equivalent”. The Tribunal has thus committed error in allowing the Original Application filed by Respondent No.1.

27. We therefore find that the impugned judgment and order passed by the Tribunal to be indefensible. The same deserves to be set aside. Accordingly, the Writ Petition is allowed and the judgment and order dated 20.02.2019 passed by the Tribunal in O.A.No.651/2018 is set aside. Rule is made absolute.”

5. In view of the above, we are not inclined to exercise our Writ jurisdiction. **This Writ Petition is, therefore, disposed off.**

6. Since we are informed that the National Council for Teachers Education (NCTE) is the authority which can deal with the grievance of the Petitioner, we find that in Navnath and Others (supra) (to which one of us, Y.G.Khobragade, J. is a party), it is held that NCTE is the Authority which can prescribe the qualifications. Therefore, the Petitioners can approach the NCTE for a verdict as to whether Bachelor in Computer Application would be an equivalent degree to Bachelor of Computer Science/Bachelor of Information Technology. If yes, whether Bachelor in Computer Application can be an acceptable qualification wherever Bachelor of Computer Science/ Bachelor of Information Technology, is an acceptable qualification. Let the Petitioners approach the NCTE with a proper representation setting forth all the details in support of their claim. If such a representation is received by the NCTE, we would expect the said Authority to deal with such representation by following the due procedure as is normally followed for considering such a prayer, and draw a conclusion to be communicated to the Petitioners, as expeditiously as possible and preferably within 180 days from the date of the filing of the representation. Such decision be also communicated to the State of

Maharashtra through it's Principal Secretary, School Education.

(Y.G.KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)