
(2010) 02 RAJ CK 0120

In the Rajasthan High Court

Case No : Civil Writ Petition No"s. 8814 of 2008 and 1594, 1595, 1596 of 2009

Baboo Lal Meena and Others

APPELLANT

Vs

State of Raj. and Others

RESPONDENT

Date of Decision : 22-02-2010

Acts Referred:

Citation : (2010) 2 WLN 197

Hon'ble Judges : P.C. Tatia, J

Bench : Single Bench

Advocate : Mahesh Bora, Arjun Purohit and R.S. Choudhary, for the Appellant;
Rajesh Bahti and R.L. Jangid, for the Respondent

Final Decision : Allowed

Judgement

Prakash Tatia, J.—Heard learned Counsel for the parties.

2. The controversy involved in these matters is with respect to the question whether the course of Bachelor of Arts Preparatory Course (BAP) is equivalent to Senior Secondary course of Board of Secondary Education ?

3. The controversy arose because of the fact that the petitioners after passing secondary examination, took BAP course and after succeeding in that course, they got admission in graduation course in Kota Open University. The petitioner passed the graduation and obtained the graduation degree from Kota Open University. Initially the petitioners were treated to be eligible candidates for the post of Prabodhak where the basic qualification for appointment was that one should be either Senior Secondary + BSTC or B.A. + B.Ed. The petitioners admittedly are the candidates who already passed the secondary course. However, they, as such, have not obtained the senior secondary certificate but according to the petitioners, they took the BAP certificate and entered into the graduation course in Kota Open University. It is submitted that one can be given admission to the graduation course only after having a qualification of senior secondary or equivalent thereof. The petitioners were treated equivalent to

senior secondary and were, therefore, given admission in Kota Open University where they got the Bachelor's degree. It is also submitted that a graduate cannot be a person who is having any certificate less than the senior secondary certificate.

4. According to learned Counsel for the petitioners in the course of BSTC, admission can be given to the person who possesses certificate of senior secondary or equivalent thereof. The State Government vide order dated 9.5.2002 (Annex. 3) permitted the candidates who completed BAP, admission to BSTC course. The petitioners were duly given admission in BSTC course and, therefore, BAP course is equivalent to Senior Secondary certificate, if it is looked into from this angle.

5. Learned Counsel for the petitioners also submitted that even RPSC treated BAP course as equivalent to senior secondary certificate for the purpose of giving appointment on the post of Teacher Grade-III.

6. It is submitted that all these facts were not brought to the notice of this Court in S.B. Civil Writ Petition No. 5453/2007 (Suja Ram. v. State of Rajasthan and Ors.) decided on 3.4.2008 and, therefore, this Court observed in that case that the petitioner failed to satisfy the Court as to how the BA Foundation Course is a qualification equivalent to Senior Secondary School Examination and, therefore, this Court observed that the equivalence, as a matter of fact, is required to be decided by the Government and the Government in specific terms came forward with the case that no such decision was yet taken. In view of the above reason, because of the fact that the material was not with the Court upon which the petitioners relied upon, therefore, that writ petition was dismissed.

7. It is also pointed out by the learned Counsel for the petitioners that subsequent to the decision of Suja Ram's case (supra), the same bench who passed the order in Suja Ram's case, after considering Suja Ram's case, considered the Division Bench judgment of Orissa High Court in the case of Renuka Dash v. State of Orissa and Ors., while issuing notice to the respondents in SBCWP No. 5561/2008 and directed the respondents to consider the candidature of the petitioner therein provisionally for appointment as Prabodhak in District Barmer.

8. In the totality of the facts of the case, it comes out that because of the fact that the petitioners in Suja Ram's case failed to place on record any material so as to satisfy the court how the BAP course is equivalent to senior secondary certificate whereas herein these cases, the petitioners have placed on record these relevant materials which require consideration in the light of the argument of the petitioners that there cannot be a graduate without having a senior secondary certificate or equivalent thereof and there cannot be a BSTC certificate without possessing the senior secondary certificate or equivalent thereof. The contention of the petitioners further require consideration in the light of the fact that RPSC itself is treating this course of BAP equivalent to senior secondary for

the purpose of giving appointment to the candidates for the post of Teacher Grade-III and that post is available to the candidates who have passed the senior secondary examination.

9. It is also clear from the judgment in Suja Ram's case that the State, by that time, did not take any decision about the equivalence of BAP course with senior secondary examination.

10. Learned Counsel for the respondents pointed out that in Kota Open University, admission is given in the course of graduation on the basis of BAP certificate but there is a difference between BAP course and Senior Secondary course and, therefore, these two courses cannot be treated to be equivalent to each other.

11. I considered the submissions of learned Counsel for the parties and perused the facts of the case.

12. It is not in dispute that the required qualification for the post of Prabodhak is Senior Secondary Certificate + BSTC or Graduation + B.Ed. The petitioners are claiming that they are having course of BAP which is equivalent to the course of Senior Secondary, however, they are possessing BSTC certificate. If it is held that Senior Secondary certificate and BAP certificate are equivalent to each other and they are treated to be so by the State Government for the purpose of giving appointment in service, then the petitioners become eligible for the post. However, it is also relevant that the petitioners were already given appointment on the post of Prabodhak and their appointments have been cancelled by the impugned orders on the ground that according to the respondents, the petitioners since had no certificate of senior secondary, therefore, they are not eligible and the petitioners have challenged that order of cancellation of their appointment on the ground of equivalence of BAP certificate with Senior Secondary Certificate as well as on the ground that once appointment is given, that cannot be cancelled in the manner in which it has been done and the petitioners did not suppress this fact from the employer while obtaining appointment.

13. The admitted facts are that the State Government itself accepted BAP certificate for the purpose of giving admission to the BSTC course run by the State Government itself and recognised for the purpose of appointment on the post of Prabodhak which is clear from the notice issued for giving appointment on the post of Prabodhak, then the degree of graduation can be awarded to the persons who possess or obtain the Senior Secondary Certificate recognised by the University concerned and in the State of Rajasthan, in all the universities, only the candidates who have senior secondary certificate, are admitted to the graduation course including in Kota Open University. There may be difference in the two courses - BAP and Senior Secondary. The petitioners are not relying upon the BAP course alone but they are having requisite certificate of BSTC which is a higher certificate and which is awarded only after completion of the

course of senior secondary and in view of the Government order dated 9.5.2002, after completion of BAP. The Government itself has treated the BAP course equivalent to senior secondary and, therefore, only allowed the candidates having BAP course as eligible candidates for the course of BSTC.

14. In view of the above reason of the BAP course being equivalent for obtaining degree of graduation and to the course of BSTC, the BAP course appears to be equivalent to the certificate of Senior Secondary. The RPSC is also recognising BAP course as equivalent to senior secondary while giving appointment to the post of Teacher Grade- III where the basic qualification is Senior Secondary as stated by learned Counsel for the petitioners which is not disputed by learned Counsel for the respondents, rather say, admitted by the learned Counsel for the respondents, therefore, in these matters where the appointments have been cancelled of the petitioners on the ground of non-equivalence of BAP with senior secondary is concerned, the respondents have failed to justify their action of treating BAP course to be not equal to senior secondary.

15. At this juncture, it will be relevant to observe that in Suja Ram's case, the State did not decide about the equivalence of BAP course with senior secondary as well as there was no material before the bench that two courses were equivalent or treated as equivalent by the State Government itself. The fact situation in the present cases are entirely different and this Court cannot ignore the fact that the same bench has already entertained the writ petition and issued notice to the respondents even after deciding the case of Suja Ram. The respondents in their reply failed to show any justification for not treating this course of BAP as equivalent with the senior secondary when they themselves have treated it to be equivalent to senior secondary for the purpose of higher studies.

16. Kota Open University is also an University recognised under the UGC and when even a graduate degree by University and when the State itself recognises BAP course for the purpose of grant of another degree treating it to be equivalent to senior secondary, then the equivalence can be determined on the basis of the facts placed on record as well as which are not substantially in dispute.

17. In view of the above reasons, the removal of the petitioners of writ petitions No. 1594/2009, 1595/2009 and 1596/2009 on the ground of non-equivalence of BAP course with senior secondary cannot be justified, hence, the orders of termination of the petitioners are quashed. The respondents are directed to reinstate the petitioners with all consequential benefits except the back wages in consequence of this order.

18. In SB Civil Writ Petition No. 8814/2008, the petitioner Ram Narayan Choudhary was called for interview but according to the petitioner, he has been denied appointment only on the ground that BAP course is not equivalent to Senior Secondary examination.

19. Since it has been held that the course of BAP is equivalent to the course of

senior secondary, therefore, the denial of appointment to the petitioner on this ground cannot be justified. The respondents are, therefore, directed to consider the case of the petitioner for appointment to the post of Prabodhak and give him appointment if he is otherwise found eligible.

20. With the aforesaid directions and observations, all these writ petitions are allowed.