

(2003) 11 JH CK 0005

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 2517 of 2003

Binod Vikash Manch and Another

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-11-2003

Acts Referred:

Constitution of India, 1950 — Article 21A

Citation : (2003) 4 JCR 710

Hon'ble Judges : P.K. Balasubramanyan, C.J; Tapen Sen, J

Bench : Division Bench

Advocate : M.S. Anwar, for the Appellant; Manjul Prasad, SC (L and C) and Sanjay Piprawall, for the Respondent

Judgement

1. Heard both sides.

2. In this writ petition, learned counsel for the petitioners essentially challenged the examination already held for selection of primary school teachers in the State. The challenge made to that examination has been rejected by this Court in WP (PIL) No. 2769 of 2003 and connected cases, Mr. M.S. Anwar, learned counsel appearing for the petitioner argued that the State has introduced CBSE Syllabus for education in the State and that Syllabus provides that English language be taught from the first standard. The learned counsel pointed out that under Article 21A of the Constitution of India, fundamental right to elementary education has been conferred upon children up to the age of 14 years and that right under Article 21A of the Constitution would include the right to quality education. He submitted that we cannot impart quality education in English by asking the teaching to be done by a teacher who has not even studied that subject. In support of the submission that such a situation can arise, learned counsel also referred to Annexure-1, the Recruitment Rules and pointed out that there was not even a paper in English in the test that was conducted for primary teachers. From a scrutiny of Annexure 1, we find that Mr. Anwar is correct in that submission. Therefore, the situation envisaged by learned counsel Mr. Anwar

assumes a sense of reality. The learned counsel appearing for the respondents fairly submitted that obviously a person who has not studied English at the appropriate level cannot be entrusted with the task of teaching English or a person who has not studied mathematics will not be in a position to teach that subject.

3. In this situation, it is necessary to direct the respondents to ensure that only teachers qualified in English and capable of teaching English are appointed as language teachers to teach English. This will be the same for other languages and/or subjects inasmuch as a person must have the necessary educational qualification in that language or subject and must have competence to teach that language or subject before he can be appointed to teach that subject. As counsel pointed out, we cannot have a teacher for teaching computer science unless the teacher is proficient in that subject. It is in that situation, that we feel justified in issuing a direction to the respondents in that regard.

4. We have already indicated in our earlier judgment that it is for the Government to consider whether the educational qualification prescribed for appointment should not be raised at least for the future. We reiterate that direction to the respondents to seriously consider that aspect so that children coming out of schools in the State of Jharkhand may have adequate equipment to meet the challenges of higher education and the competence to compete with the students from the rest of the country.

5. As we have indicated, the other aspects raised by Mr. Anwar are covered by our earlier decision. We are, therefore, not inclined to entertain afresh challenges on the test already conducted or to the made thereof and so on. But we deem it necessary to clarify that appointments to be made based on that test will be according to the requirement of qualification as indicated above, though a test in English language itself was not conducted.

6. We, therefore, dispose of this writ petition by directing the respondents to ensure that, only those who possess the qualification in the particular subject as indicated are selected and appointed to teach the particular subject. As an illustration, only a teacher who has the requisite qualification in terms of the Rules and who has studied the English language upto the qualification level, should be appointed as a teacher in English. The same will be the position regarding the other subjects. The authorities must also consider the need for introducing English as a subject for these selection tests taking into consideration the fact that the language is our window to acquisition of advanced knowledge making us competent to compete with the rest of the world in all fields of human activity.