
(1999) 05 AHC CK 0016

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 18831 of 1999

Dadu Ram Garg and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 14-05-1999

Acts Referred:

Uttar Pradesh Basic Education (Teachers) Service Rules, 1981 — Rule 8

Citation : (1999) 2 UPLBEC 1434

Hon'ble Judges : I.M. Quddusi, J

Bench : Single Bench

Advocate : N.C. Tripathi, for the Appellant;

Judgement

I.M. Quddusi, J.—Heard learned Counsel for the petitioners and learned Standing Counsel.

2. The respondents have published on advertisement in the News paper inviting applications for filling up the posts of Assistant Teachers in Primary Schools/ Junior Basic Schools. The minimum qualifications prescribed for the said posts are that the candidate must possess intermediate examination certificate conducted by Madhyamik Shiksha Parishad, U.P. or any qualification equivalent thereto and the candidates must also possess Training Certificate, like B.T.C., H.T.C., J.T.C. and teaching experience certificate or any training certificate equivalent thereto obtained from the institutions run by the Government of U.P.

3. The grievance of the petitioner is that they have obtained training certificate from the Government recognised institution, from outside the State of U.P. In U.P. Basic Education (Teachers) Services Rules, 1981, the minimum requisite qualifications have been given under Rules 8 for the post of teachers or basic schools and in this Rule, the qualifications in respect of training is Basic Teacher Certificate, Hindustani Training Certificate Junior Training Certificate or any training certificate equivalent thereto alongwith intermediate examination certificate conducted by Madhyamik Shiksha Parishad, U.P.

4. According to the learned Counsel for the petitioner, vide notification dated 9-7-1998, the Rules have been amended to the extent that eligibility criteria for appointment would be determined on the basis of graduation degree obtained from the recognised university or a degree equivalent thereto together with training certificate after undergoing training from the institutions run by the Government. Thereafter, vide order dated 11-8-1997, it has been directed that the post of Assistant Teachers in Primary Schools of Basic Shiksha Parishad should be filled up from amongst the candidates who are B.T.C. trained or H.T.C.. trained from the institutions run by the State of U.P. only and the recognition granted later on to other courses equivalent to these courses should be cancelled. It is not known whether the recognition granted to other courses equivalent to the B.T.C. or other training of the Government of U.P. has been cancelled or is still in existence. However, the intention of the legislature to make amendments in the Rules vide notification dated 9-7-1998 is clear and in view of that notification, the Government Order issued earlier stands superseded. This is worth consideration that the Government Order dated 11-8-1997 directs to cancel the recognition granted to other courses equivalent to the courses of State Government, but it cannot effect retrospectively as there was already a recognition duly granted by the Director of Education and the persons who have obtained training certificates which were recognised as equivalent to the teachers training certificates of various courses equivalent to the teachers training certificates, like B.T.C, H.T.C., J.T.C. of the State Government prior to 11-8-1997, had admittedly no knowledge that the State Government would be recognise the training courses of other states which were treated equivalent to the training certificate of the State of U.P. Hence, the persons who have obtained training certificate which was declared by the State Government or by the Director of Education as equivalent to the teachers training certificate provided by the State of U.P. in good faith, cannot be deprived of giving benefit at this juncture when they have no option as they have already obtained certificate of training from outside the State of U.P. in view of the aforesaid recognition.

5. Learned Counsel for the petitioners has also relied upon a decision of Hon''ble Supreme Court in the case of Suresh Pal and Others Vs. State of Haryana and Others, in which the Apex Court has decided the similar controversy.

6. This Court also following the law laid down in Suresh Pal case (supra) has directed in number of writ petition namely Writ petition No. 1089/97; Km. Pushpa Bisht. v. State of U.P. and Ors., Writ Petition No. 37457 of 1998; Banshnarayan and Ors. v. Secretary, Board of Basic Education, U.P., Allahabad and the case of Urmila Bhat v. District Basic Education Officer, Pauri Garhwal and Ors., reported in 1998 (79) FLR 323 to the effect that the persons who had obtained training certificates prior to 11-8-1997 should be treated as equivalent to the teachers training certificate, provided their courses were recognised prior to 11-8-1997.

7. In view of the facts and circumstances of the case discussed above, this writ

petition is finally disposed of with the direction to the respondents to see whether the petitioners were already having a teachers training certificate from outside the State of U.P. which was declared prior to 11-8-1997 as equivalent to the teachers training certificate obtained by the person in the State of U.P. and if it is found that the petitioners were having qualification regarding teachers training certificate equivalent to the teachers training certificate of the State of U.P. which is the minimum requisite qualification for appointment on the post of Assistant Teachers in pursuance of the advertisement in question, the said qualification of the petitioners shall also be considered to be equivalent to that qualification and in that case, the respondents shall treat the petitioners equal to the other candidates having minimum requisite qualification obtained from the State of U.P. are being treated.

8. The whole exercise will be done within six weeks form the date of production of a copy of this order before the respondents.