

(2008) 01 PAT CK 0031
In the Patna High Court
Case No : CWJC No. 9925 of 2006

Dhirendra Kumar Singh and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 07-01-2008

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2008) 1 PLJR 583

Hon'ble Judges : Rajesh Balia, C.J;Chandramauli Kr. Pd., J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties. The petitioners challenge the validity of rule 4(Ka)(iii) and 4(Kha)(iii) of the Bihar Municipal Secondary & Higher Secondary Teachers" (Employment & Service Conditions) Rules, 2006 as well as Rule 4(Ka)(iii) and 4(Kha)(iii) of the Bihar Zila Parishad Secondary & Higher Secondary Teachers" (Employment & Service Conditions) Rules, 2006, which are para materia with each other.

2. The challenge is on the anvil that the impugned provisions suffer from vice of hostile discrimination impinging on the fundamental rights guaranteed under Article 14 of the Constitution of India.

3. The impugned rules inter alia provide that a candidate for being appointed as a teacher for Secondary or Higher Secondary courses shall hold B.Ed, degree either from any institution recognized by Government in this behalf obtained prior to commencement of the National Council for Teachers Education Act (NCTE Act) or B.Ed. degree from an institution recognized by the NCTE, after commencement of the Act.

4. The contention of the learned counsel in this regard is that prior to commencement of impugned provisions under the Bihar Nationalized Schools (Condition of Service) Rules, 1983, for being eligible to be appointed as a teacher

for such classes, a candidate, apart from being graduate in the concerned subject, should have either B.Ed degree, or Diploma in Education or Certificate of Teaching or any other training certificate, declared to be equivalent to the aforesaid qualification. On this basis the learned counsel contends that training of teaching under any of the aforesaid qualifications, be treated sufficient training qualification in addition to the academic qualification for the purpose of being eligible for being appointed under Rules of 2006 mentioned aforesaid. In substance, contention is that inclusion of merely B.Ed, only as requirement for being appointed as teacher for the Secondary or Higher Secondary Schools in the Zila Parishad or Municipal Corporations results exclusion from eligibility criterion the other training courses. Such exclusion, in turn, results into creation of a class within a class amongst the trained teachers having no nexus with the object sought to be achieved by having such a classification. Hence, it is a case of creating a classification amounting to hostile discrimination and impinging on fundamental rights guaranteed under Article 14 of the Constitution.

5. Having considered the contention, we are of the opinion that the real contention of the learned counsel for the petitioner is not of a classification amongst the different training courses but is to seek equivalence of one course with another, for the purpose of appointment as a teacher in Secondary or Higher Secondary Schools in Zila Parishad or Municipal Corporation, Secondary or Higher Secondary Schools, as the case may be. He seeks all training courses in Education be treated at par with a Degree course.

6. Whether the rules governing recruitment for any post, in eligibility criterion prescribed for the post must include other equivalent qualification is a matter of legislative policy and not for this Court to decide. Even where rules provide for alternate to main and substantive qualification by recognizing equivalent qualification to be taken into consideration, the question of considering any qualification to be equivalent to another qualification, is a matter of expert body to decide. Therefore, it is inept for this Court to enter into that territory and decide upon equivalence. From a plain reading of the provision contained in 1983 rules, it would appear that various teachers' training courses referred therein are training qualifications of different grades and cannot by any means be equivalent with each other, a priori. It hardly needs an argument that unless the matter is examined by any expert body, ordinarily, a diploma course is not equivalent for a degree. Likewise, a certificate by itself is not equivalent to a degree or diploma in the subject.

7. Learned counsel for the petitioners had taken pains to explain the content of training of teaching under different training courses for the purpose of impressing upon the Court that there is hardly any distinction between different courses of training imparted to a candidate. We are afraid, this is not the scope for judicial review while examining the validity of the legislation providing eligibility criteria. This is a matter of legislative policy and it is within the domain of the legislative body as to what should be the policy to provide requisite

qualification for offering appointment to the intending incumbent. We do not find any substance in the contentions of the learned counsel for the petitioners to treat different qualifications under different courses offered at different level of education to be one single class. The very fact that the Government in the Act of 1983 has provided for appointment opportunity also to a person holding equivalent qualification, as may be declared by the Government, really makes it very clear that all qualifications are not equivalent to B.Ed, on their own force. It is for the Rule making authority to provide from time to time eligibility criterion for recruitment to any post. It is for such Rule making authority to add or delete any of these qualifications in the eligibility criteria at any time by primary or subordinate legislation. Merely by not adhering to past inclusion of any training for eligibility at any later stage without anything more does not impinge upon Article 14 of the Constitution of India on the ground of hostile discrimination.

Accordingly, this petition fails and is hereby dismissed. No costs.