
(2015) 06 MP CK 0012

In the Madhya Pradesh High Court

Case No : Writ Petition Nos. 7671, 7672, 7673, 7927, 7928, 7929, 7974/2013
and 2810/15

Dinesh Kushwah and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 25-06-2015

Acts Referred:

Citation : (2015) 06 MP CK 0012

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : D.P. Singh, for the Appellant; Amit Bansal, Dy. Govt. Advocate,
Advocates for the Respondent

Final Decision : Dismissed

Judgement

Sujoy Paul, J.—In these batch of petitions, similar questions are involved. Accordingly, on the joint request of the parties, these matters were analogously heard and decided by this common order.

Facts are taken from W.P. No. 7671/2013.

2. The petitioner, pursuant to an advertisement issued by official respondents, submitted his candidature for the post of Subedar. It is contended that the petitioner has requisite qualification as per the rules Annexure P-7. It is contended that petitioner is having diploma in Office Management and diploma in Computer Application from recognized institutions. He fulfills the requirement of relevant rules and, therefore, petitioner is eligible for the post of Subedar.

3. This is second visit of the petitioner. Earlier he filed Writ petition No. 5292/13 which was disposed of at admission stage itself on 14.8.2013. The petitioner was given liberty to file a detailed representation and in turn, the competent authority was directed to decide the said representation by a reasoned order. In turn, the respondents have passed the order dated 30.8.2013 and candidature of the petitioner was rejected. This common order is called in question in all the

connected matters.

4. Shri D.P. Singh, learned counsel for the petitioner, by taking this Court to relevant portion of the rules, contends that the petitioner has requisite qualification. He submits that the stand of the respondents that the respondent No. 5-University was not authorized to issue the diploma in Office Management is incorrect. He submits that respondent No. 5 is established pursuant to local Act and as per the scheme and object of the said Act, the said University was well within its authority to issue one year diploma in Modern Office Management. The State Government has published a Gazette notification on 9.5.1997 and as per the said notification, the diploma in Office Management and Secretarial Procedure is treated as recognized courses. After having issued said notification dated 9.5.07 (page 28), it is not open to the respondents to contend that petitioner is not eligible. In addition he relied on executive instruction dated 10.9.2010 to contend that for issuance of diploma in Computer Application, all the Universities which are recognized from UGC are authorized to issue certificate. It is contended that the action of the respondents is arbitrary in not treating the petitioner as eligible. In the course of argument, Shri D.P. Singh also relied on Section 37(A) of Maharishi Mahesh Yogi Vedic Vishwavidyalaya and Others Vs. State of M.P. and Others, AIR 2002 MP 196 : (2002) 2 MPHT 353 (Maharishi Mahesh Yogi Vedic Vishwavidyalaya and others v. State of M.P. and Ors.).

5. Shri S.S. Kushwaha, learned counsel for respondent No. 5-University relied on the same notification and borrowed the same argument which was advanced by Shri D.P. Singh. He submits that the said University is competent to issue the certificate of diploma in Computer Application and Office Management.

6. Per contra, Shri Amit Bansal, learned Deputy Govt. Advocate relied on various paragraphs of the return and also relied on certain annexures. He contended that the respondent No. 5-University is not approved by AICTE as Polytechnic College. Therefore, the Diploma issued by it in Modern Office Management cannot be accepted and, therefore, the respondents have not committed any error in rejecting the claim of the petitioner. It is further submitted that the General Administration Department/State Government has not issued any circular to declare the certificates issued by respondent as "equivalent" to the certificate issued by the Govt. Polytechnic College. In absence of aforesaid, the petitioner has no case.

7. No other points are pressed by the learned counsel for the parties.

8. I have bestowed my anxious consideration on the rival contentions of the parties and perused the record.

9. I deem it apposite to reproduce the relevant portion of eligibility condition from rule book (Annexure P/7). It reads as under:--

10. As per this clause, diploma holders in Modern Office Management from

following institutions are held to be eligible:--

"1. Diploma and certificate from a Polytechnic College recognized by AICTE.

2. Diploma in said subject from any other institution which is declared as equivalent by State Government.

3. Modern Office Management course from Government Polytechnic College."

11. It is true that respondent No. 5 is established pursuant to a local Act namely "Maharishi Mahesh Yogi Vedic Vishwavidyalaya" Adhiniyam (Act No. 37 of 1995). It is in the approved list of UGC. The impugned rejection order (Annexure P/1) shows that rejection is based on following reasons:--

"(i) Petitioners do not fulfill the eligibility conditions as per aforesaid rules.

(ii) Their diploma in Modern Office Management is of one year whereas diploma granted in the said subject by Polytechnic College or other institutions is of three years.

(iii) Respondent No. 5- University is not treated as equivalent by the State Government."

12. Learned counsel for the petitioners have taken pains to submit that petitioners have obtained diploma from respondent No. 5 which is recognized by UGC. State Government by Ordinance No. 15 recognized the said certificate course. Even if it is true, this does not improve the case of the petitioner. The petitioners are required to establish their eligibility as per conditions mentioned and relevant rules reproduced above. It is apt to mention that the validity of said Rule is not under challenge. Thus, this Court is obliged to examine the qualification of the petitioner as such on the anvil of existing rules. As per said rules, the petitioners have failed to establish that their diploma in Modern Office Management is issued from any of such institution mentioned in para 11 above. Their certificate is neither issued by Govt. Polytechnic College nor by any other institution which is treated as equivalent by the State Government. Admittedly, the AICTE has not given recognition to the said course, run by respondent No. 5- Maharishi Mahesh Yogi Vedic Vishwavidyalaya.

13. Thus, I am unable to hold that petitioners fulfill the aforesaid eligibility conditions. Petitioners have also not denied that the said diploma course in AICTE recognized institution is for four years, whereas their diploma course is only for one year. Condition (3) 1,2 and 3 must be read with clause (3) of eligibility condition. A conjoint reading of these clauses will show that said clauses deal with computer education.

14. In view of aforesaid analysis, in my view, the respondents have not erred in rejecting the candidature of the petitioners. Petitions fail and are hereby dismissed.

The Registry is directed to keep a true copy of this order in all the connected

matters.