
(2000) 06 GUJ CK 0065

In the Gujarat High Court

Case No : Special Civil Application No. 4005 of 1987

Jayantigar S. Gosai

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 21-06-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 4 GLR 489

Hon'ble Judges : P.B. Majmudar, J;B.C. Patel, J

Bench : Division Bench

Advocate : Suman Khare, for R.K. Mishra, for the Appellant; A.D. Oza, Government Pleader and D.P. Joshi, A.G.P. for Respondent No. 1 and J.T. Trivedi, for the Respondent

Final Decision : Dismissed

Judgement

B.C. Patel, J.—Petitioner, making a grievance that there is a denial of grade of trained teachers as per Desai Pay Commission recommendations, has approached this Court by filing a petition under Article 226 of the Constitution of India. Petitioner is also contending that grade of untrained teacher on the ground that the teacher is not trained is against the constitutional mandate of "equal pay for equal work", and is discriminatory.

2. The petitioner has stated that he is possessing higher qualifications, viz., B.A. and G.B.T.C. According to the petitioner, G.B.T.C. is a qualification prescribed for imparting training to P.T.C. students. The P.T.C. students after qualifying are considered as trained teachers for imparting education to students attending primary schools. Before the learned single Judge, at the time of hearing on 2.5.1998, it was contended that several Judges of this Court have taken a view that the qualification of B.A., B.Ed. is higher than that of P.T.C. and the teachers, possessing such qualifications, cannot be treated as untrained primary teachers. The Government relaxed the condition in respect of primary teachers appointed prior to 1st January, 1977, and teachers, possessing B.Ed. qualification, were

deemed to be trained teachers and were permitted to draw pay in the scale applicable to the trained primary teachers. View has been taken that the teachers appointed even after 1st January, 1977 should be given the same treatment as teachers appointed prior to 1st January, 1977. While disagreeing with the views, the learned single Judge has referred the matter to the Division Bench for the reasons recorded in the order, which are as under :-

"... First, because the primary teaching is a special kind of training required for teaching the young children who attend primary school and it cannot be compared with the secondary school teachers' training or any other higher qualification. Second, the relevant recruitment rules do require that the persons to be appointed as Primary Teachers shall have the training in primary teaching (PTC). Thus, allowing a non-PTC teacher to be appointed and to be treated as a trained teacher, would be in contravention of the recruitment rules also. Third, if the Government, for whatever reason, has granted some relaxation to the teachers appointed prior to 1st January, 1977, such relaxation cannot be continued to be granted for all times to come. It is undisputed that the petitioner herein is appointed after the recruitment rules came into force and that he does not possess the qualification of PTC. Thus, in my view the petitioner cannot be treated to be a trained teacher. In view of the binding precedent of the learned single Judge of this Court in the matter of SATISHCHANDRA SHAH & ANR. VS. STATE OF GUJ 1984 (1) GLR 651 and the judgment rendered by this Court (Coram : N.N. Mathur, J.) in Special Civil Application No.2903/88, delivered on 6th February, 1996, the matter requires to be referred to the Larger Bench...."

3. A person having a position to teach the student better, who has just started attending the school, - is the main question. Mr. Oza, learned Government Pleader referred to a book, entitled "Principles and Practices of Teacher Education", by R.S. Reddy, wherein the Author has observed :-

"... There is far less consensus about the qualities needed by a good teacher than those required by a good pilot, and the fact that teachers are primarily concerned with human beings, and pilots mainly with machine, has important implications...."

Mr. Oza submitted that one who is highly qualified, need not mean that he can deal with minor children, who have just started attending the schools. We were very much anxious to see as to how the teachers who are PTC and the teachers who are B.Ed. differ in the training. Teachers, who are possessing B.Ed. qualification, get their graduation from University. University has published syllabus for Bachelor of Education. We have read the entire syllabus for B.Ed. Part I and Part II. Basic Training College for Primary Teachers centres are conducting classes for training for primary teachers. The curriculum for Pre-service Teacher Education is also placed before us. In the first year, Contextual Competencies of the trainees of the PTC are required to be considered. There is a conceptual competency course also. They have to pass the test pertaining to competencies related to Content and Methodology, Mother Tongue, Hindi,

English, Mathematics, and Environmental Studies. They have to study the Environmental Interaction, Educational Interaction, Educational Activities, life educational activities, life-oriented educational activities, preparation and use of teaching-learning materials, evaluation and management. They are required to understand how they should deal with the parents and with other agencies. They have to understand class room performance, school level performance, performance in the educational out of school activities, parents related performance and community related performance. They have to understand about five commitment areas. Commitment to the learner indicates that the teacher must understand what is genuine love for children, patience, tolerance towards the mistakes and mischiefs of the students, commitment to their progress and development. Teacher also should have concern for human empowerment. He has to take care for developing the sense of equality and love among children. Equal importance is given to the commitment to society, profession and basic values. In PTC College, the student has to work on an average for 240 days. Similarly, in the second year, they have to appear in the similar subjects which have been discussed.

4. Part I of B.Ed. has a vast field. Student for B.Ed. has to appear in five papers in Part I. The subjects are : Education and Teacher in emerging Indian Society and the learner-nature and development; Teaching-learning process and modern trends and current issues in Secondary Education in India; School management and Educational organization and special field; School management and educational organization. There are 11 fields, out of which one is to be selected by the student preparing for B.Ed. There are 22 subjects in Paper IV, out of which two subjects are to be selected. Apart from languages, History, Geography, Mathematics, Science, Physics, Chemistry, Biology, Economics, Business Mathematics, Commerce, Elements of Book-keeping, the Problems of Modern Life in context of Indian Culture, Mathematics (for Science Stream), Psychology, Political Science, Sociology and Logic are the subjects. If there is a look at subjects, which are being taught in B.Ed. Courses, one fails to understand how this could be relevant for primary teachers. Young kids who have just entered the school are required to start with alphabets and numbers 1 to 9. They are not concerned with Science, Physics, Geography, Biology, Economics and such other subjects. Therefore, one has to look at the subjects, which are being taught to the teachers, who are getting trained as P.T.C.

5. It is very interesting to read as to what is to be taught in primary school. Teachers have to concentrate on the capacity of the students in so far as it relates to hearing, speech, reading, writing, acceptance of those either by hearing and reading. The teachers have to assess the students about their capacity in so far as grammar, self-reading, use of language and vocabulary are concerned. For all the four classes, details are given as to how the students are to be assessed for all the aforesaid aspects. The teacher has to see that the student, who has entered the school, at the end is able to read about 1500 words and is able to understand the meaning of the same. In Class IV, the

student must be able to understand about 4000 words and should be able not only to read, but must be able to understand. We are not dealing with each and every aspect in detail. Reading the syllabus, it is very clear that only specially trained teacher for educating newcomer kids at the school can teach the students. In the primary school, students are not to be made hard working students, but they are required to be told stories by which they can be made to understand what is good and what is bad. They are made to understand through symbols, stories and poems in a simple way which they can understand. They are taught as to how to make conversation, how to make oral request, how to speak simple sentences, how to behave in a group, how to read words, and poems, how to answer in short, either in 'yes' or 'no'. Teachers will be made to understand whether the students are able to identify the letters by separating the same from the words. On the blackboard, words written are to be read by the students. In the beginning of learning, he is required to be made to understand how to adjust the letters for making a word. In English alphabet, there is no question of joining the letters, while in Gujarati and in Sanskrit as well as in Hindi, the letters are many times not independent, but are joined with other letters. Whether student is able to hear the conversation and, thereafter, after passage of some time, he is able to remember the same or not and to what extent, is to be tested. All these are primary things, with which the teacher of a secondary school is not concerned.

6. Before us "Norms and Standards for Teacher Education Institutions for Secondary (B.Ed.) with Elementary (P.T.C.)" issued by the National Council for Teacher Education, New Delhi, are placed for perusal. We have perused the same and reading the same, it is quite clear that what a teacher, who is trained as a P.T.C. can teach to a student, who has just entered the school, the B.Ed. teacher cannot teach. The person who is qualified as B.Ed. is trained for teaching secondary school pupils. The pupils of secondary school are trained and are not to be taught from the beginning. The requirement of secondary school pupils are quite different, their subjects are different, level is different and area is different. All these aspects are required to be kept in mind. Merely because the teacher who is qualified as B.Ed. is appointed as a teacher in a primary school, that does not mean that all who are B.Ed. can teach the students who are in the primary school. The teacher who is qualified as P.T.C. is given the training to teach the students of primary school and is experienced in the branch of teaching the students of Primary School. May be that, that teacher may be able to guide the students who have just entered the school, because he is specialized in that Branch, but all others having qualifications like B.Ed., cannot teach such students. This most important aspect has not been kept in mind. Before us, even the books were placed for First Year and Second Year students for getting themselves trained as P.T.C. We have perused the books and reading the same, it is quite clear that the field of P.T.C. and B.Ed. both are quite different and we would say that both cannot be compared. This important aspect is required to be borne in mind while deciding the matter. "Training, Recruitment and Utilization of

Teachers in Primary and Secondary Education", published by "Organization for Economic Cooperation and Development" was placed for perusal. This organization was set up under a convention signed in Paris on 14th December, 1960. So far as the role of a teacher is concerned, that being very important, attention is given. What is the role of a teacher is indicated in the book. After survey and study in detail in various countries, in Chapter II, standards of initial training for primary teachers have been indicated. Reading the Chapter, it appears that it is a well-accepted proposition that there must be training of primary teachers in independent establishments.

7. On behalf of the petitioner, it was submitted that learned single Judge of this Court in *Satishchandra Bhailalbhai Shah & Ors. v. State of Gujarat* 1984(1) GLR 651, has taken the view that a person, who is qualified to teach Primary Teaching Certificate trainees cannot be said to be not qualified for teaching primary school students. If the candidates are possessing higher qualification, on that ground, they cannot be denied lower posts of trained primary teachers. In any view of the matter, when Government itself has accepted that those teachers, who have passed B.Ed. examination prior to January, 1977 are exempted from passing Primary Teaching Certificate Examination, by the said order, the Government has recognized that a qualification of B.Ed. was higher than that of Primary Teaching Certificate and, therefore, B.Ed. teachers should not be compelled to undertake P.T.C. training, which will be derogatory to such teachers. The Court has further held that if a graduate with B.Ed. degree is considered equivalent to, if not more than, a primary teacher holding Primary Teaching Certificate prior to 1977, by no stretch of imagination it can be said that a teacher who passed B.Ed. degree subsequent to January, 1977 cannot be said to be qualified for teaching primary school students.

Following the aforesaid decision, in Special Civil Application No.2903 of 1988, learned Single Judge (Coram : N.N. Mathur, J.) on 6th February, 1996, allowed the Special Civil Application and directed to pay / grant for the salary of graduate B.Ed. teachers in the school from the date it was due with usual interest thereon. Before the learned single Judge, Department refuted the contention of the petitioner that B.Ed. teachers are entitled to the same salary as trained primary teachers, having qualifications of P.T.C. In view of these two decisions, the petitioner tried to persuade the learned single Judge in that the petitioner is similarly treated and though he is not P.T.C., his scale is not disturbed. Before us, it is further contended that the petitioner is B.A. and G.B.T.C. (Graduate Basic Training College), which is equivalent to B.Ed. It was submitted that this is an additional factor required to be taken into consideration for not disturbing the grade of the petitioner. Learned single Judge, while referring the matter, pointed out as under :-

"... First, because the primary teaching is a special kind of training required for teaching the young children who attend primary school and it can not be compared with the secondary school teachers training or any other higher

qualification. Second, the relevant recruitment rules do require that the persons to be appointed as Primary Teachers shall have the training in primary teaching (PTC). Thus, allowing a non-PTC teacher to be appointed and to be treated as a trained teacher, would be in contravention of the recruitment rules also. Third, if the Government, for whatever reason, has granted some relaxation to the teachers appointed prior to 1st January, 1977, such relaxation cannot be continued to be granted for all times to come "

We are in agreement with the views expressed by the learner to the nature of training for Primary teachers and secondary teachers, level of pupils in primary school and secondary school, and the nature of training for the pupils at different levels. The relevant rules, therefore, must be construed, keeping these aspects in mind.

8. In *Andhra Kesari Education Society v. Director of School Education and others* AIR 1989 SC 183, the Apex Court observed as under :-

"... Before parting with the case, we should like to add a word more. Though teaching is the last choice in the job market, the role of teachers is central to all processes of formal education. The teacher alone could bring out the skills and intellectual capabilities of students. He is the 'engine' of the educational system. He is a principal instrument in awakening the child to cultural values. He needs to be endowed and energized with needed potential to deliver enlightened service expected of him. His quality should be such as would inspire and motivate into action the benefiter. He must keep himself abreast of ever changing conditions. He is not to perform in a wooden and unimaginative way. He must eliminate fissiparous tendencies and attitudes and infuse nobler and national ideas in younger minds. His involvement in national integration is more important, indeed indispensable. It is, therefore, needless to state that teachers should be subjected to rigorous training with rigid scrutiny of efficiency. It has greater relevance to the needs of the day. The ill trained or substandard teachers would be detrimental to our educational system; if not a punishment on our children. The Government and the University must, therefore, take care to see that inadequacy in the training of teachers is not compounded by any extraneous consideration"

In *Ram Sukh and others v. State of Rajasthan and others* AIR 1990 SC untrained primary school teachers in rural schools under the Panchayat Samitis should be treated at par with trained teachers. The Apex Court pointed out that :-

"... We are not less sympathetic to the petitioners who are out of job but we cannot forget the welfare of those who are not before the Court. They are the tiny tots who require proper handling by well trained teachers. The court had an occasion to observe about the need for proper training to teachers in the interests of students. "

In paragraph 7, the Apex Court pointed out the observation

"... 7. These observations are equally relevant to primary school teachers with whom we are concerned. The primary school teachers are of utmost importance in developing a child's personality in the formative years. It is not just enough to teach the child alphabets and figures, but much more is required to understand child psychology and aptitudes. They need a different approach altogether. Only trained teachers could lead them properly. The untrained teachers can never be proper substitute to trained teachers. We are, therefore, unable to give any relief to the petitioners "

9. In view of what is observed by the Apex Court, the petitioner has no case and the petition must be dismissed and we do not approve the decisions of this Court in *Satishchanda Bhailalbhai Shah & Ors. v. State of Gujarat* 1984(1) GLR 651, and in *Special Civil Application No.2903 of 1988* (Coram : N.N. Mathur, J.) dated 6.2.1996 and the aforesaid two decisions are hereby overruled.

Rule is accordingly discharged, with no order as to costs.