

(1997) 01 OHC CK 0016

In the Orissa High Court

Case No : Original Jurisdiction Case No's. 3790 and 3843 of 1996

Malini Kishore Dash

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 16-01-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1997 Ori 188

Hon'ble Judges : R.K. Patra, J;R.K. Dash, J

Bench : Division Bench

Advocate : S.K. Aziz, S.K. Jena, A.K. Bhuyan, K. Moharana and S. Acharya, for the Appellant; S.P. Mishra and Addl. Governmetn Advocate, for the Respondent

Final Decision : Dismissed

Judgement

R.K. Patra, J.—The validity of fixing minimum educational qualification with 40% of marks in total in High School Certificate or any other equivalent examination for admission to certified teachers. (C.T.) Course imparted in the Government Secondary Training Schools of the State during the year 1995-96 is the subject matter of challenge in these two petitions filed under Article 226 of the Constitution by the N. F. B. Facilitators. Both the petitions being analogous, they were heard together and are disposed of by this judgment.

2. The petitioners' common case is that Government in the Department of School and Mass Education letter No. 30170./SmE dated 26-9-1994 (Annexure-3 in O. J. C. No. 3790 of 1995) instructed the Director, T.E. and Section C.E.R.T., Orissa to extend [raining facility of the certified teachers (C. T.) Course in the Government Secondary Training Schools to N. F. B. Facilitators/ Supervisors on the basis of length of their engagement but the Director contrary to the aforesaid instruction imposed the minimum qualification for admission to C, T. course as pass in H. S. C. or any other equivalent examination with 40% of marks in total. The petitioners' contentions are two fold ;

(i) Fixing of 40% marks in total in H.S.C. or any other equivalent examination for admission to C. T. Course is arbitrary; and

(ii) The Government in letter No. 30170/ SME dated 26-9-1994 having not fixed any restriction, the Director is not competent to fix any cut-off mark for admission.

3. The contesting opposite parties in their counter affidavit have stated that consequent upon the National Policy on Education, 1986 and with a view to maintaining the standard of teachers, the Government in the interest of the nation, has fixed 40% of marks as minimum educational qualification for entry into C. T. Training Course. The learned Additional Government Advocate appearing for the opposite parties submits that the contentions urged on behalf of the petitioners has already been answered against them in *Biawafanjan Das v. State of Orissa*. 1996 II OLR 534.

4. At the out-set we reject the bald contention of the petitioners that no cut-off base can be fixed for admission to C. T. Course in the Government Secondary Training Schools. Under Chapter XD of the Regulations of the Board of Secondary Education, Orissa, Teachers' Certificate Examination (C.T.) of the secondary training schools is conducted. After a candidate comes out successful in the examination, he is granted with the Teacher's certificate which enables him to be appointed as a teacher in a school. The role of a teacher in our education system cannot be lost sight of. He is the principal hub to all processes of formal education. With a view to maintaining standard of teachers, it is essential that minimum percentage of marks at the H.S.C. or equivalent examination is to be fixed for admission to the C. T. Course. In the circumstances, fixing of minimum marks at the H. S. C. or equivalent examination for being eligible to be admitted to the C. T. Course cannot be held to be wrong. In the instant case, 40% of marks has been fixed as the minimum marks for admission. No exception can be taken to such cut-off base.

5. The next question that arises for consideration is who is the authority competent to fix the percentage of marks for admission in Government Secondary Training Schools. The Secondary Training Schools where the C. T. Course is imparted are run by the State Government. As such the Government or any other authority duly delegated By it would be competent to fix the minimum educational qualification for admission to such course. The learned Additional Government Advocate asserts that the minimum qualification for admission of NFE Facilitators/ Supervisors to C. T. Course has been fixed by the State Government. Shri Aziz disputes the stand taken by the learned Additional Government Advocate and by referring to letter No. 11017 dated 21-11-1994 (Annexure-6 in O.J.C. No. 3790 of 1995) submits that such minimum qualification was fixed by the Director, T. E. and S.C. E. R. T., Orissa. In view of such conflicting stand, we directed the learned Additional Government Advocate to produce necessary Government instruction, if any, in this regard. Pursuant to the said direction, he produced before us a copy of letter No. 20022/SMB dated

17-6-1994 issued by the Government of Orissa in the School and Mass Education Department which contains the guidelines for admission to C. T. Course in the Government Secondary Training Schools of the State. In paragraph 2(1) of the said letter, it has been mentioned as follows :

"2. (i) The requisite qualification for admission to C. T. Course shall be a pass in Higher Secondary Education (plus 2 examination) or equivalent with minimum 40% of marks excluding the extra optional subject."

6. It seems that when the question of extending training facility to N.F.E. Facilitators arose, the Government in the Department of School and Mass Education vide letter No. 30170/ SME dated 26-9-1994 (Annexure-3 in O. J. C. No. 3790 of 1995) informed the Director, T. E. and S. C. E. R. T. that 10 seats might be kept reserved in each Government Secondary Training School for N.F.E. Facilitators/Supervisors which should be allotted on the basis of priority list to be drawn up on the basis of length of engagement and eligibility, i.e. requirement of minimum educational qualification being fulfilled. The aforesaid underlined portion of the Government letter clearly demonstrates that although training facility is made available to N.F.E. Facilitators the cut-off marks prescribed by the Government in letter No. 20022/SME dated 17-6-1994. referred to above remained unaltered. In view of the aforesaid, we have no hesitation to hold that it is the State Government who has prescribed the cut-off marks for admission to C. T. Course in the Government Secondary Training Schools. On reading of letter No. 11017 dated 21-11-1994 relied on by Shri Aziz, it would appear that the said letter was issued by the Director, T.E. and S. C. E. R. T., Orissa by way of clarification elucidating that the minimum educational qualification of H. S. C. with 40 per cent marks prescribed by the Government cannot be waived.

7. For the aforementioned reasons, we do not find any merit in the petitions which are accordingly dismissed. There would be no order, as to costs.