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**(2018) 08 MP CK 0058**  
**In the Madhya Pradesh High Court**  
**Case No : Writ Petition No.4203 Of2017**

Manisha Namdev

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

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**Date of Decision :** 07-08-2018

**Acts Referred:**

Constitution of India, 1950 — Article 14

**Citation :** (2018) 08 MP CK 0058

**Hon'ble Judges :** S.C. Sharma, J

**Bench :** Single Bench

**Final Decision :** Disposed Off

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## Judgement

Learned counsel for the parties at the outset has drawn the attention of this Court towards judgment delivered in the case of Sadhu Singh Gurjar &

Ors. Vs. State of M. P. & Ors. passed in Writ Petition No.1460/2015 by the Gwalior Bench in respect of similarly situated person.

The learned Single Judge has allowed the writ petition and held as under:-

As common question is involved in all the connected writ petitions, therefore they are heard and decided by this common order.

2. The petitioners holding the qualification of Matriculation or B.A. with D.Ed./ B.Ed. from Bhartiya Shiksha Parishad Lucknow applied for

appointment to the post of Samvida Shala Shikshak Grade II/III and upon selection were appointed. Thereafter, for the purpose of absorption in

Adhyapak Samvarg, individual cases were scrutinized and during such screening, the respondents formed the opinion that D.Ed./B.Ed. courses

qualified by them from are from unrecognized institution, as according to the respondents, Bhartiya Shiksha Parishad Lucknow is not recognized by

the National Council for Teacher Education (NCTE). Consequently, cases of the petitioners were though considered and some of them were also

absorbed under Sahayak Adhyapak Samvarg Grade II/III but at a latter stage since respondents formed the opinion that Bhartiya Shiksha Parishad

Lucknow is not recognized by the NCTE, therefore, some of the petitioners, who were absorbed and some of the petitioners, who were not absorbed

in Adhyapak Samvarg, were discontinued after affording opportunity of hearing. As a result, these nine writ petitions have been filed raising common

ground of challenge i.e. whether the action of the respondent - State is justified having held Bhartiya Shiksha Parishad Lucknow not recognized by the

NCTE resulting into prejudicial action against the petitioners.

3. During the course of hearing, it has transpired that under similar facts and circumstances, Jila Panchayat Ujjain vide order dt.04.08.2014 has

extended three years' time of such teachers and extended an opportunity to obtain D.Ed./B.Ed. Qualification from the Institution recognized by the

NCTE. Said order is placed before the Court on Board. Therefore, learned counsel contends that similar opportunity may be extended to the

petitioners herein.

4. Shri Arvind Dudawat, learned counsel for the respondent Zila Panchayat opposed the prayer on the premise that the order dt.4.8.2014 is not a

general order issued by the State Government but only in respect of few Samvida Shala Shikshak Grade II of Zila Panchayat Ujjain, who could not be

absorbed in Adhyapak Samvarg for want of recognized Diploma/Degree of B.Ed./D.Ed. and they are allowed to continue as Samvida Shala Shikshak

Grade II for further three years by way of renewal and an opportunity is afforded to them to obtain D.Ed./B.Ed. Qualification from the institution

recognized by the NCTE, therefore, no parity can be claimed by the petitioners herein. Further, as the petitioners either have not been absorbed or

their absorption in Adhyapak Samvarg has been cancelled only after being afforded opportunity of hearing, therefore, no illegality can be attributed to

the action impugned. Under such circumstances, writ petitions as suggested by the counsel for the petitioners can not be disposed of in the light of the

order passed by Zila Panchayat District Ujjain on 4.8.2014.

5. Heard learned counsel for the parties.

6. As per the rules, namely Madhya Pradesh Panchayat Samvida Shala Shikshak

(Employment and Conditions of Contract) Rules, 2005 (hereinafter referred to as the Rules of 2005), the educational qualification for the post of Samvida Shala Shikshak Grade II is "Graduation" and for Samvida Shala Shikshak Grade III is "Higher Secondary". Petitioners appear to have been appointed in the year 2006 having fulfilled the requisite educational qualification by different Zila/Janpad Panchayats. It further appears that the petitioners at the time of their appointment had qualified D.Ed./B.Ed. from Bhartiya Shiksha Parishad Lucknow. Petitioners continued in service. It appears, in the year 2008 State Government has framed another set of rules namely the Madhya Pradesh Adhyapak Samvarg (Employment and Conditions of Services) Rules, 2008, whereunder provision was made for absorption of Samvida Shala Shikak Grade II/III, who have successfully completed three years' tenure provided they had obtained B.Ed./D.Ed. qualification from the institution recognized by the NCTE. It further appears that cases of petitioners were placed before the screening committee for the purpose of absorption in Adhyapak Samvarg either as Sahayak Adhyapak, Adhyapak or Varishth Adhyapak. Screening Committee having found the B.Ed./D.Ed. certificates obtained by the petitioners as recognized by NCTE absorbed some of the teachers in Adhyapak Samvarg and others in pursuance of certificates. Further, at a latter stage, it was found that as the Bhartiya Shiksha Parishad Lucknow since is not recognized by NCTE, therefore, the absorption orders after notice to the affected teachers were cancelled. As a result, the petitioners have approached this court taking exception to the impugned order on several grounds.

7. Shri R.D.Jain, learned senior counsel contends that the decision of the respondents that Bhartiya Shiksha Parishad Lucknow, from where the B.Ed./D.Ed. certificates were obtained by the petitioners is not recognized by the NCTE, is not legally correct as the said institute is recognized by the University Grants Commission and hundreds of teachers, who have obtained D.Ed./B.Ed., certificates from this institution are now working as full fledged teachers in different States including the State of U.P. That apart, the syllabus, standard of institution are not less than the institutions recognized by NCTE. Besides, its recognition by different States suggests that non-recognition of such institution by NCTE in fact and in effect is an arbitrary action and does not conform to concept of equality as enshrined under

Article 14 of the Constitution of India. For no fault on the part of the petitioners, qualified degree/diploma courses obtained by them have been illegally put to grave prejudice for no justifiable reason. Petitioners have continued as Samvida Shala Shikshak Grade II/III for last more than ten years with unblemished service record. As such, their efficiency, ability and performance have been well adjudged as a member of teaching faculty and, therefore, their right of absorption in Adhyapak Samvarg upon completion of three years successful tenure as Samvida Shala Shikshak Grade II/III ought not to have been obstructed only for the reason that the B.Ed./D.Ed., certificates obtained eleven years ago from Bhartiya Shiksha Parishad Lucknow are not recognized by the NCTE, albeit recognized by the UGC.

However, Shri Jain has shown his grace and submitted that though petitioners are well qualified with sound knowledge and experience in teaching but are still required to obtain B.Ed./D.Ed. qualification from any of the Institute recognized by the NCTE. The order dated 04.08.2014 passed by the Zila Panchayat, Ujjain renewing the term of the contract of Samvida Shala Shikshak Grade-II/III for further three years for enabling them to acquire D.Ed./B.Ed., qualification as per NCTE norms is well in conformity with the principles of justice, equity and good conscience. It is submitted that after having rendered much more than the required length of service to be absorbed in the Adhyapak Samvarg, only for the reason that at the time of their appointment, D.Ed./B.Ed., qualification has been acquired by them from an institution not recognized by the NCTE, they have been deprived of livelihood. Petitioners are, therefore, entitled to seek parity on the touch stone of Article 14 of the Constitution of India and equitable consideration.

Hence, Shri Jain, learned senior counsel submits that such teachers who are already absorbed in Adhyapak samvarg may not be discontinued and force them to work as Assistant Grade-II/III and their term may be renewed affording opportunity to qualify D.Ed./B.Ed., from such institution recognized by the NCTE. The said teachers who are still working as Samvida Shala Shikshak Grade- II/III and still to be absorbed in Adhyapak samvarg may be continued as such and their term may be renewed with a condition to acquire D.Ed./B.Ed., qualification from an institution recognized by the NCTE for absorption in the Adhyapak Samvarg.

8. Prayer appears to be reasonable. There is no dispute that petitioners have so

far performed duties as teachers either as Samvida Shala Shikshak

Grade II/III or in Adhyapak Samvarg with utmost satisfaction of the superiors with unblemished service record. They have completed more than ten

years of service as on date. Bhartiya Shiksha Parishad Lucknow though is not in the list of recognized institute of the NCTE but undisputedly is

recognized by UGC, a higher body and/or above NCTE. Teachers having obtained D.Ed./B.Ed. from such institute are serving as teachers in different

States. Therefore, it is equitable that the petitioners are permitted to continue in their respective cadre either in the Adhyapak Samvarg, if they are

already absorbed or in Samvida Shala Shikshak Varg II and III, further for a period of three years and an opportunity is extended to them to obtain

D.Ed./B.Ed. qualification, as the case may be, from the institute recognized by the NCTE.

9. With the aforesaid directions, all the writ petitions are disposed of. No order as to costs.

10. A copy of order be placed in the connected writ petitions.â??

In light of the aforesaid order, present writ petition also stands disposed of and the judgment delivered in the case of Sadhu Singh Gurjar (Supra) shall

be applicable mutatis mutandis in the present case also. Impugned order dated 16/06/2017 is hereby quashed. Respondents are directed to reinstate

the petitioner in service and the petitioner shall be entitled for all consequential benefits except the back wages.

Certified copy as per rules.