

**(2012) 11 KAR CK 0064**

**In the Karnataka High Court**

**Case No :** Writ Petition No's. 84199 and 84509-512 of 2012

Manjunath and Others

APPELLANT

Vs

The State of Karnataka and Karnataka Residential  
Educational Institutions Society

RESPONDENT

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**Date of Decision :** 20-11-2012

**Acts Referred:**

Constitution of India, 1950 — Article 14

**Citation :** (2012) 11 KAR CK 0064

**Hon'ble Judges :** B.S. Patil, J

**Bench :** Single Bench

**Advocate :** S.M. Chandrashekar, for the Appellant; Mallikarjun Sahukar, HCGP for R1 and Smt. Umadevi S. Babshetty, for R2, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

B.S. Patil

1. In these writ petitions petitioners are calling in question the Recruitment Rules known as Karnataka Residential Educational Institutions Society (Cadre and Recruitment) Regulations 2011 and (amendment) Regulations 2011 (herein after referred to as "the Recruitment Rules") for M.D. and K.R.C. (Moorarji Desai and Kittor Rani Chennamma) Residential Schools, governing the recruitment of teaching and non- teaching staff by direct recruitment. A copy of the rules is produced at Annexure-A. Insofar as recruitment of Art and Craft Teachers (Drawing Teachers), the qualification prescribed, as can be seen from the relevant rule, is as under:

1. Must be holder of Bachelor Degree in Fine Arts

or

Master degree certificates awarded by the State Government or any other examination equivalent thereto in Fine Arts

or

2. Must have passed SSLC or equivalent examination recognized by the Government of Karnataka

And

Must have passed Diploma in Drawing and Painting Examination or Art Master Examination

or

Has passed the examination which is declared as equivalent by Government of Karnataka vide G.O. No. ED 27 SLV 2004 dated 21.03.2006 and

Candidate must have studied Kannada as one of the languages either in Post Graduate Degree or Bachelor Degree or Pre-University Course or SSLC or holder of Diploma in Kannada or passed Kannada Certificate Course (Kava/Jana/Rathna) conducted by Karnataka Secondary Education Examination Board/Kannada Sahitya Parishat, Bangalore.

2. All these petitioners claim that they have passed Diploma in Drawing and Painting Examination or Art Master Examination. They were eligible for appointment to the post of Art and Craft Teacher (Drawing Teacher) and hence they applied for the post.

3. The State Government has established Karnataka Residential Educational Institutions Society. In order to make recruitment to various posts in the residential schools established by the said Society, the Recruitment Rules have been made. The 2nd respondent-Society has issued notification dated 28.04.20-11 calling for applications to the post of Principals, Teachers and other staff. The petitioners are only concerned with the recruitment of Art and Craft Teachers (Drawing Masters).

4. According to the petitioners, the Government intended to fill up about 459 posts of Drawing Teachers. As the petitioners were eligible, they applied for the same and the select list has been published.

5. The respondents have pointed out in their statement of objections that the selection has been made for 898 posts of Drawing Teachers and the select list published contains the details of the qualification-wise selection of candidates in the following manner:

6. The main contention of Sri S.M. Chandrashekar, learned Senior Counsel appearing for the petitioners in support of the challenge made to the Recruitment Rules is that the candidates who are made eligible to apply for the post from different streams like persons having qualification of Bachelors Degree in Fine Arts or Master Degree Certificates or persons having passed SSLC and possessing Diploma in Drawing and Painting or Art Master Examination have no commonality, nor are they equals in the matter of the nature of the qualification

they have acquired and the training and education they have undergone, therefore, pooling them together and making it as a common stream for recruitment for the post of Drawing Teacher to teach young students is arbitrary and irrational, nor is there any reasonable nexus with the object sought to be achieved and therefore, the Recruitment Rules are unconstitutional being arbitrary and opposed to Article 14 of the Constitution of India.

7. Elaborating his submission, learned counsel points out that a person possessing Masters Degree Certificate in Fine Arts cannot be made to compete with a person who has passed in Diploma in Drawing and Painting Examination or Art Master Examination. It is his further submission that the process of recruitment is made by taking note of the merit of the candidates with reference to the marks secured by them in the respective qualifying examination. He submits that as long as there is no single qualifying examination from where the candidates are recruited, the method adopted to assess the merit by referring to the marks obtained in different qualifying examinations is beset with arbitrariness. His submission is that in the absence of any other common test including even a viva-voce, such a procedure adopted for recruitment to the post of Drawing Teachers is wholly illegal and unsustainable.

8. Learned counsel appearing for the respondents have supported the Recruitment Rules and contended that the apprehension expressed by the petitioners that the posts for which recruitment is made have been knocked away by persons possessing qualifications such as Masters Certificate in Fine Arts and Bachelors Degree in Fine Arts to the exclusion of Diploma holders is incorrect and opposed to the facts, inasmuch as, as many as 288 candidates have been selected on their merit referring to the marks obtained by them in the Diploma Examination, which disclosed that they have also got appreciable share in the total seats notified for recruitment. It is their submission that as long as merit in the qualifying examination is made as criteria for recruitment, the process cannot be criticized as arbitrary, as it takes note of only the merit and merit alone.

9. Having considered the respective contentions and on careful perusal of the materials on record, I find that the challenge made to the validity of the Recruitment Rules is mainly based on the alleged arbitrary approach adopted by the rule making authority in clubbing candidates possessing three different qualifications into one category for the purpose of recruiting them to the post of Drawing Teacher. It is a well-established principle of law that the rule making authority in its wisdom and discretion has power to prescribe the eligibility criteria pertaining to educational qualifications for the purpose of any post. In the instant case, the recruitment is to the post of Drawing Teacher. The object and purpose behind prescribing the qualification for any post needs to be kept in mind with reference to the nature of the duties that the holder of the post discharges and the Recruitment Rules to be framed in this regard must conform to the said object. If the Rule Making Authority has prescribed that a person possessing Masters Certificate in Fine Arts or Bachelors Degree in Fine Arts is

suitable to discharge the duties of a Drawing Teacher, and as also those possessing Diploma in Drawing and Painting, this Court cannot meddle with it nor can it be characterized as arbitrary or irrational.

10. It is equally well established that for the purpose of recruiting a candidate to a post, the eligible candidates can be drawn from different fields and there is no compelling requirement in law that such selection has to be confined only to one single category of candidates possessing a particular qualification. Candidates though possessing different qualifications, but well suited to discharge the duties of the post may be grouped together for the purpose of constituting them as one stream for selection or certain qualifications may be declared as equivalent for the purpose of making them eligible to apply for the post. Therefore, as long as the rule making authority has kept in mind the purpose and object behind the recruitment of Drawing Teachers which is apparently to teach the students by imparting effective training and education to them and as long as the classification made grouping these categories into one stream for the purpose of such recruitment has reasonable nexus with such an object and purpose sought to be achieved, the rules framed cannot be declared as unconstitutional being violative of Article 14 of the Constitution of India.

11. The petitioners, who are Diploma holders are eligible and have in fact applied and participated in the process of selection. Only when their names did not appear in the select list as successful candidates, they have approached this Court filing these writ petitions. The selection process is completed and at this stage these writ petitions are filed.

12. It is a well-established principle that a candidate, who has participated in the selection process cannot assail the Recruitment Rules or the selection process prescribed after he is found unsuccessful in the process. Useful reference can be made in this regard to the decisions of the Apex Court in the following cases (i) K.A. Nagamani Vs. Indian Airlines and Others, ; (ii) Madan Lal and Others Vs. State of Jammu and Kashmir and Others, ; (iii) Chandra Prakash Tiwari and Others Vs. Shakuntala Shukla and Others, , and also to a Division Bench judgment of this Court in the case of Shri Krishnamurthy Sangannavar Vs. The Registrar General, High Court of Karnataka and Others .

13. Though learned Senior Counsel Mr. S.M. Chandrashekar, appearing for the petitioners, at this stage, submits that in fact the Diploma holders had indeed made a grievance about these Rules before the State Government even before selection process commenced, the fact remains that they have challenged the validity of the Rules only after they came to know that their names did not find a place in the select list. Such candidates cannot be permitted to assail the selection process and the Recruitment Rules, as otherwise, it will tantamount to annulling the entire process at the instance of the persons, who have taken a chance to compete with the other eligible candidates and later chose to challenge the rules and recruitment process after the entire process is completed. Therefore, on this ground also, the writ petitions are liable to be dismissed.

14. Even otherwise, as I have already adverted to above, there is no arbitrariness or unreasonableness in the Rules framed by the rule making authority grouping candidates possessing different qualifications and classifying them into a common stream from where the recruitments are made for the post of Drawing Teachers, As long as it is established that the object and purpose behind such classification and grouping is to ensure that candidate possessing merit in the field of Fine Arts suitable for teaching students as Drawing Teacher as is quite apparent and the meritorious among them stands to succeed, the petitioners cannot attribute arbitrariness or unreasonableness to the Rules framed. Judicial Review of legislative action cannot be stretched further to the extent as sought by the petitioners. The select list having been published and the entire process having been completed, there is absolutely no justification for the petitioners to stall the whole process by challenging the Recruitment Rules at the last moment, by invoking the writ jurisdiction. I find no merit in these petitions. The matter does not call for interference from this Court. Hence, these writ petitions are dismissed.