
(2025) 03 OHC CK 1344
In the Orissa High Court
Case No : Writ Petition (C) No.26681 Of 2017

Manoj Kumar Jena

APPELLANT

Vs

State Of Odisha & Others Vs

RESPONDENT

Date of Decision : 04-03-2025

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2025) 03 OHC CK 1344

Hon'ble Judges : Sashikanta Mishra, J

Bench : Single Bench

Advocate : Laxmikant Mohanty, B. Barik, P.K. Nayak, S.N. Patnaik

Final Decision : Allowed

Judgement

Sashikanta Mishra, J.

1. Pursuant to an advertisement published for selection of Sikshya Sahayaks, the petitioner submitted his application for the district of Gajapati. He was allowed to participate in the selection process and in the provisional select list his name found place at SL No.646 but in the final selection list, his name was excluded. On query, he found that as per order dated 14.02.2011 of the Council of Higher Secondary Education (CHSE) and order dated 28.02.2011 of the Government, a candidate having vocational qualification prior to 2009 cannot be treated as equivalent to +2 Science. Challenging such decision, the petitioner and five other persons approached this Court in W.P.(C) No.27500 of 2011.

2. This Court disposed of the said writ application directing the petitioner to approach the CHSE, Odisha for grant of necessary equivalent certificate. Though the petitioner approached the CHSE, Odisha by submitting representation on 17.12.2011 but no action was taken. While the matter stood thus, the Government in ST and SC Development Department issued advertisement for engagement of Sikshya Sahayak in Gajapati district. The petitioner applied and was provisionally selected. According to the petitioner, several candidates having

+2 vocational courses were appointed against +2 Science post. The petitioner specifically cites the case of one Madingi Sanjeev Rao, who having +2 vocational qualification was selected against +2 Science post. The petitioner, therefore, approached the Collector, Gajapati on 21.01.2012 by submitting a grievance petition. Grievance petition was taken up by the selection committee under the chairmanship of the Collector, Gajapati on 10.10.2012, wherein the following decision was taken:

"As per L.No.4938/S&ME Dated 09.03.2011 regarding equivalence of +2 Vocational Course. The Committee decided to consider status of candidates as per Resolution No.3022/CHSE(O) Dated 19.06.2010 and L.No.6657/CHSE Dated 14.08.2006 and that all the candidates previously selected having vocational education qualification/passing out the +2 vocational course prior to 19.06. date of issue of Resolution by CHSE, Odisha to be taken from the +2 Science category to +2 Arts category and to be fitted in as per merit in the Arts Stream."

"The candidate those have been engaged in the +2 Science Stream having qualification of vocational education which was not coming under the +2 Science stream shall have to be fit in as per merit in the Arts stream after issue of a show cause notice as to why they will be considered under the science stream and not under the Arts Stream in view of the Notification issued by the CHSE, Odisha and communicated in Letter No.4938/S&ME Dated:09.03.2011 of the S&ME Department."

3. It is the further case of the petitioner that the vocational course pursued by the petitioner belongs to Science stream, therefore, he cannot be equated with +2 Arts. The petitioner, therefore, again approached this Court in W.P.(C) No.2980 of 2015. This Court, by order dated 06.07.2015, directed the Collector, Gajapati to take a decision in the matter. By order dated 28.12.2015, the Collector, Gajapati rejected the grievance of the petitioner. On such facts, the petitioner has approached this Court again in the present writ application with the following prayer:

"The petitioner, therefore prayed that, this Hon'ble Court would be graciously pleased to consider the above stated facts and circumstances of the case, admit this writ application, issue notice to the Opposite Parties under Rule NISI calling upon the Opposite parties to show cause as to why the writ application shall not be allowed and direction shall not be issued to them to give immediate appointment to the petitioner in quashing the observation in Annexure-7 by the Opposite Party No.3 treating the petitioner as +2 Science category, in respect of the petitioner forthwith and if the Opposite Parties fail to show cause or shows insufficient cause the said rule be made absolute;

And to pass such any other writ(s)/ direction(s)/ order(s) as may be deem fit and proper in the bonafide interest of justice;

And for this act of kindness, the petitioner as in duty bound shall ever pray."

4. It is the case of the petitioner that he completed the vocational course in the year 2008 and was placed in the first division. By letter dated 14.02.2011 the CHSE, Odisha clarified regarding equivalence of Higher Secondary Vocational Examination conducted by it with different subjects as Basic Foundation Course as being equivalent to Higher Secondary Examination. Such subjects include Physics, Chemistry, Mathematics or Biology in Science stream. Since the petitioner appeared in the General Knowledge course, Basic Foundation Course, Electric Domestic Appliances theory and practical, he comes under the +2 Science category in view of notification dated 19.06.2010. Therefore, the petitioner ought to have been considered for the Science Stream. It is reiterated that the candidates who have passed vocational course during the years 2006 to 2009 has studied Physics, Chemistry, Mathematics, Biology and Engineering Drawing as Basic Foundation Course. Since two persons having similar qualifications have been appointed in Science stream in the same district, the petitioner cannot be discriminated.

5. The stand of the State authorities as reflected from their counter and additional counter filed in the case is that the committee decided to consider the status of candidates as per resolution dated 19.06.2010 and letter dated 14.08.2006 of the CHSE, Odisha to the effect that all candidates selected having vocational qualifications prior to 19.06.2010 are to be taken from the +2 Science category to +2 Arts category to be fitted as per merit in the Arts Stream. Further, concession is available in case of untrained candidates belonging to SC, ST and SEBC under +2 Science category. But the same has not been extended to SEBC candidates in +2 Arts category. The petitioner being SEBC candidate had applied in respect of +2 Science category. In the vocational examination he had appeared in English, M.I.L.(Odia), General Foundation Course, Basic Foundation Course and Elective in Domestic Appliance. He did not appear in any of the Science subjects. The CHSE, Odisha published notification dated 14.02.2011 to clarify that candidates passing vocational education from CHSE having Physics, Chemistry, and Mathematics will be considered equivalent to +2 Science, which the petitioner does not possess. Therefore, his case cannot be considered. Moreover, he does not possess CT qualification and being of SEBC category, he also cannot be considered against +2 category. It is further stated that the +2 vocational examination in 2008 cannot be treated as equivalent to that of the examination passed under +2 Science stream conducted by CHSE, Odisha but the same is equivalent to +2 Arts and +2 Commerce Stream.

6. Heard Mr. Laxmikant Mohanty, learned Counsel for the Petitioner and Mr. S.N. Patnaik, learned Additional Government Advocate for the State.

7. Mr. Mohanty would argue that having regard to the fact that the petitioner has passed the Basic Foundation Course in the vocational stream in 2008 which includes Physics, Chemistry and Mathematics, it cannot be said that he was not qualified for being considered against +2 Science stream. In the clarification issued by CHSE on 14.02.2006, the HS Vocational Examination having different

subjects as Basic Foundation Course including Physics, Chemistry, Mathematics or Biology is treated as equivalent to Higher Secondary Examination in Science Stream. The same thing has only been clarified further by CHSE, Odisha in its notification dated 19.06.2010. Even otherwise, a candidate with similar qualification as the petitioner namely, Madingi Sanjeev Rao was engaged against Science stream. According to Mr. Mohanty, therefore, not granting the same benefit to the petitioner amounts to discrimination.

8. Mr. S.N. Patnaik, learned State Counsel, on the other hand, would argue that the authorities are bound by the notification of CHSE, Odisha granting equivalence between Vocational Courses and HS Examination. Since the petitioner passed in 2008, which is prior to issuance of notification dated 19.06.2010 by the CHSE, Odisha, he cannot be considered as equivalent to +2 Science. Moreover, he being an SEBC candidate and without any training qualification, his case also cannot be considered in Arts stream.

9. The basic facts are not disputed in the case inasmuch the petitioner admittedly passed the vocational examination held in the year 2008 from Government Vocational Junior College, Gurandi, Gajapati. The advertisement was issued inviting applications for the engagement of Sikshya Sahayaks in the district of Gajapati. The eligibility criteria, inter alia, lays down that the candidate must have passed +2 Science Examination or its equivalent examination. It has been forcefully argued on behalf of the petitioner that he having passed the vocational examination, which includes the Basic Foundation Course as one of the papers, is to be treated as equivalent to +2 Science candidate. Reference has been made to a certificate issued by the Principal, Government Vocational Junior College, Gurandi, Gajapati that the students who passed Higher Secondary Vocational Examinations from the said college in Electrical Domestic Appliances Trade (EDA) during the years 2006, 2007, 2008 and 2009, have studied the subjects Mathematics, Physics, Chemistry and Engineering Drawing as Basic Foundation Course (BFC) in their syllabus prescribed by CHSE, (Odisha).

10. Further, reference is made to the clarification issued by the CHSE to the Government vide letter No.5/ SECY/Dt 14.02.2011 regarding equivalence of the HS vocational examinations conducted by the CHSE, Odisha, Bhubaneswar. The said letter is quoted herein below:

"Council of Higher Secondary Education, Orissa,
Prajnapitha, Samantapur, Bhubaneswar-751013.

From:

Dr. J.K. Mahapatra,

Secretary

No.05/SECY/Dt.14/02/11

The Special Secretary to Govt.,

Deptt. Of Higher Education, Orissa, Bhubaneswar.

Sub: Clarification regarding equivalence of the H.S. Vocational Examinations conducted by the CHSE, Orissa, Bhubaneswar.

Sir,

As desired by you, I am directed to inform you that as per the proceedings of the Academic Committee of the Council held on 11.01.2010 and duly approved by the Government Body of the council in its meeting held on 13.01.2020 followings are the criteria for deciding equivalent to different streams of H.S. Examinations.

H.S. Vocational Examination	Equivalent to
Having subjects as mentioned	Higher Secondary
below as Basic Foundation Course.	Examinations in
History, Pol. Science & -	Arts Stream
Economics	
Accounting, Cost Management etc. -	Commerce Stream
Physics, Chemistry, Mathematics	
or Biology -	Science Stream

This is for your kind information and necessary action.

Yours faithfully,

Secretary

11. It is evident that the letter refers to the proceedings of the academic committee of the Council held on 11.01.2010 yet the letter itself was issued on 14.02.2011 [Emphasis added]. On the above basis it is claimed that the petitioner having Physics, Chemistry, Mathematics as Basic Foundation Course must be held equivalent to Science stream. Significantly, in the counter filed by the Secretary, CHSE; notification bearing No.6657/CHSE dated 14.08.2006 has been enclosed which reads as follows:

"TO WHOM IT MAY CONCERN

This is for information of all concerned that the +2 Vocational Examination, conducted by the Council of Higher Secondary Education, Orissa, Bhubaneswar is equivalent to the Examination conducted by the CHSE for +2 Arts and Commerce streams."

12. The above document having been submitted by the CHSE before this Court carries much weight. Therefore, even though it does not expressly say so, the earlier clarification dated 14.02.2006 referred to herein before must be treated

as having been superseded by it. Moreover, the incongruity is the said letter, is already stated, being tell-tale, this Court refrains from saying anything further in this regard save and except that the so-called clarification dated 14.02.2011 is not worthy of any consideration whatsoever.

13. Another document, being notification dated 19.06.2010 has been enclosed to the counter filed by the CHSE. Pursuant to the meeting of the Council on 13.01.2010 the Higher Secondary Vocational Examination in certain subjects were recognized as equivalent to that of HS Examination in Science stream conducted by CHSE, Odisha. Said notification mentions the Basic Foundation Course subjects as Physics, Chemistry, Mathematics or Biology. Further it is mentioned that the order will come into effect immediately from the date of its issue. Thus, as between 14.08.2006 till 18.06.2010, the principle followed by the CHSE, Odisha was that +2 vocational examination was held to be equivalent to the examination conducted by the CHSE for +2 Arts and Commerce Streams. This has also been stated in so many words by CHSE in its counter under paragraph-7 which is quoted herein below.

"7. That it is evident from the records and clarifications that a student passed in +2 Vocational Examination in 2008 cannot be treated to be equivalent to that of the examination passed under +2 Science Stream conducted by CHSE, Odisha. The same is equivalent with that of +2 Arts and +2 Commerce Stream."

(Emphasis added)

14. Having held as above, this Court finds that though the petitioner cannot be considered for +2 Stream in the absence of equivalence yet he can certainly be considered in +2 Arts category. It has been pleaded and argued on behalf of the State that the petitioner being an SEBC candidate but without CT qualification cannot be considered against +2 Arts category. This Court, however, finds that in the meeting of the selection committee held on 10.10.2012 under the chairmanship of the Collector, Gajapati under the heading +2 Science CT, the following was observed in respect of the petitioner:

3. +2 Sc. C.T.

SL

No.

Name of the Applicant

Application No.

Category

Gist of complaint

Observation of the case

1.

Manoj Kumar

Jena

21

+2 Sc. CT

Sri Manoj Kumar

Jena has appeared before the Collector, Gajapati in his Grievance cell regarding selection of Vocational acquired applicant in welfare section but not by DPC, (SSA).

As per L.No.4938/S&ME

Dated:9.3.11 regarding equivalence of +2 Vocational Course. The Committee decided to consider status of candidates as per resolution NO.3022/CHSE(O) Dated:19.06.2010 and L.No.6657/CHSE Dated:14.08.2006 and that all the candidates previously selected having vocational education qualification/Passing out the +2 vocational course prior to 19.06. date of issue of Resolution by CHSE, Odisha to be taken from the +2 Science category to +2 Arts Category and to be fitted in as per merit in the Arts Stream.

15. There is no mention of the absence of CT qualification therein. In the speaking order passed by the Collector on 28.12.2015, also nothing has been mentioned in this regard. The above plea appears to have been taken for the first time by the State in its counter, which obviously is not permissible.

16. Thus, from a conspectus of analysis of facts and relevant notifications as well as the contentions raised, this Court holds that the petitioner, having passed the Higher Secondary Vocational Examination in the year 2008, is eligible to be considered for engagement in the Arts Category in view of the notification dated 14.08.2006 of the CHSE. Further, a similarly placed person namely, Madingi Sanjeev Rao having been engaged and regularized in the meantime, there is no reason why the same benefit should also not be granted in favour of the petitioner.

17. For the foregoing reasons therefore, the writ application is allowed. The impugned order under Annexure-7 is hereby quashed. The opposite party authorities are directed to engage the petitioner as Sikshya Sahayak or in any other equivalent post under +2 Arts category in view of the observations made in his respect in the meeting of the selection committee held on 10.10.2012. Necessary orders shall be passed in this regard within two months from the date of production of certified copy of this order by the petitioner..

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