

(2014) 09 MP CK 0148

In the Madhya Pradesh High Court

Case No : W.P.Nos. 17675/2011, 8921, 5523, 5550, 6525, 10694, 16977, 17054, 17202, 17269, 17281, 17436, 17580, 17675, 17766, 17935, 17965, 17994, 18108, 18043, 18158, 19047, 20936, 21207, 16450, 16200, 17216, 16980, 17934, 17629, 17501 of 2013 and W.P. Nos. 4305, 1

Rajesh Sahu

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 03-09-2014

Acts Referred:

Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 — Section 70, 95

Citation : (2014) 09 MP CK 0148

Hon'ble Judges : A.M. Khanwilkar, C.J.;Alok Aradhe, J

Bench : Division Bench

Advocate : Manoj Chansoriya, Advocate for the Appellant; Piyush Dharmadhikari, Government Advocate, Advocate for the Respondent

Judgement

1. Heard counsel for the parties.
2. In these petitions, the validity of amendment inserted vide Notification No.F-2-2-2011-XXII-P-2 dated 27th June, 2011, so as to amend Schedule-II of the Madhya Pradesh Panchayat Samvida Shala Shikshak (Employment and conditions of Contract) Rules, 2005, has been assailed. That amendment is made in exercise of powers conferred by sub- section (1) of Section 95 read with sub-section (2) of Section 70 of the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (No.1 of 1994).
3. The challenge is, however, limited to the qualification prescribed by the amended Rules, namely, Bachelor in relevant subject with at least 50% marks and Bachelor in Education (B.Ed.). That is one of the qualification amongst the other qualifications referred to in Column No.5 replacing the existing entry in Schedule II, by virtue of amendment of 2011.
4. The argument proceeds that the qualification of minimum 50% marks

obtained at Bachelor Degree Examination is in excess of the minimum qualification prescribed in the Central Legislation titled - Right of Children to Free and Compulsory Education Act, 2009 and the Regulations and Rules framed thereunder. Reliance is placed on Annexures P/7 to P/9 which are Notifications issued by the Central Government in exercise of power under Section 23 of the Act of 2009. That prescribes for 45% marks in the Bachelor Degree Examination. The argument, is that, the State Government could not have provided for higher minimum education qualification than the one provided by the Central Government.

5. To buttress this submission, reliance has been placed on the unreported decision of the Apex Court in the case of W.B.O. Primary Teachers' Association & others Vs. Chairman, Ad-hoc Committee, North & others, in I.A. No.13/2013, in SLP (Civil) No.15253/2006 dated 9th May, 2013 and another unreported Division Bench decision of the Rajasthan High Court in the case of Sushil Sompura & others vs. State (Education) & others, in D.B. Civil Writ Petition No.3964/2011 and companion cases, decided on 20th May, 2011.

6. No doubt, the minimum educational qualification prescribed by the Central Government under the Central Legislation of 2009 is 45% marks in Bachelor Degree in the relevant subject whereas the State Legislation envisages 50% marks in Bachelor Degree in the relevant subject.

7. It is well established position that the Act of 2009 is intended to maintain high standard of education imparted in the school governed by the provisions of the said Act. In that context, minimum educational qualification has been prescribed under the said Act of 2009. That is the benchmark required to be observed by all concerned including the State Government. That, however, does not mean that the State Government is not free to provide for higher benchmark regarding the minimum educational qualification of teacher employed to impart education in the schools within the State of Madhya Pradesh. That does not result in repugnancy with the law made by or conditions specified in the Central Legislation. In our opinion, therefore, the challenge in this petition on the ground pressed into service is completely untenable and, therefore, will have to be rejected.

8. Reverting to the two unreported decisions, we find that the decision of the Supreme Court is on some Interlocutory Application and does not even remotely deal with the question posed before us in the present petition. So is the case of the unreported judgment of the Rajasthan High Court relied by the counsel for the petitioner. In none of these decisions, the question as to whether it is impermissible for the State Government or State Legislature to provide for higher minimum qualification as the benchmark than the one envisaged by the Central Legislation has been dealt with either directly or otherwise. Suffice it to observe that the two decisions are inapplicable to the proposition under consideration.

9. Taking any view of the matter and as no other contention is raised by the

petitioner before us, in our opinion, the challenge in these petitions is misplaced.

10. Hence these petitions are hereby dismissed with no order as to costs.