
(2014) 08 MP CK 0146
In the Madhya Pradesh High Court
Case No : Writ Petition No. 4426 of 2014

Rajkumar Lodhi

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 05-08-2014

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14, 14(1), 15, 16

Citation : (2014) LabIC 4130

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : S.S. Kushwaha, Advocate for the Appellant; Sangita Pachuri, Dy. Govt, Advocate for the Respondent

Judgement

Sujoy Paul, J.—Heard. Shri Kushwaha submits that the order dated 8.7.2014 is bad in law and the matter is covered by the order passed in WP No. 4194/2014 (Annexure P/6).

1A. The prayer is opposed by Smt. Pachauri, learned Deputy Government Advocate.

2. I have heard learned counsel for the parties at length.

3. The basic question involved in this matter is whether the qualification of B.Ed./ D.Ed., obtained by the petitioner from Bhartiya Shiksha Parishad, can be treated as an essential qualification under the Rules.

4. The bone of contention of the petitioner is that as per the statutory recruitment rules, there is no requirement that D.Ed. should be completed from an organization recognized by the NCTE.

5. This Court on 4.8.2014 in WP No. 4574/2014 considered this aspect in a similar matter and opined as under:--

"This petition is directed against the order dated 25.07.2014 whereby petitioners' services are terminated on the ground that their qualification (D.Ed.)

is from an institution (Bhartiya Shiksha Parishad (U.P.)) which is not recognized by NCTE."

6. Criticizing this order, it is submitted by Shri Raghuvanshi that the recruitment rules are amended on 27th June, 2011 (Annexure P/4). As per the eligibility condition for the post in question, one must have two years' diploma in education. Shri Raghuvanshi submits that there is no requirement in the rules that diploma must be from recognized institute. He further submits that Bhartiya Shiksha Parishad is an autonomous body and is competent to issue the certificate. However, during the course of argument, he fairly admitted that Bhartiya Shiksha Parishad is not a recognized institute from National Council for Teacher Education (NCTE). He submits that order is passed under dictate of higher authorities and principles of natural justice are violated.

7. Mrs. Pachauri, on the other hand, supported the order. She submits that once it is admitted that Bhartiya Shiksha Parishad is not recognized by NCTE, petitioners' appointment is bad in law.

8. I have heard learned counsel for the parties and perused the record.

9. No doubt, this Court in WP No. 4194/2014 directed that respondents shall provide opportunity to the petitioner as per principles of natural justice. However, it is noticed that the sole ground for terminating the petitioners is that petitioners' D.Ed. certificate is from an institution which is not recognized by NCTE. Paragraph 3 of the impugned order (Annexure P/1) shows that certificate of D.Ed. submitted by petitioner was minutely examined by the authorities. This order shows that decision is taken independently/dispassionately without getting influenced by the ultimate direction passed on 08.07.2014 (Annexure P/2). The pivotal question is whether the D.Ed. mark-sheet issued by Bhartiya Shiksha Parishad fulfills the eligibility condition. The bone of contention in this regard is that under the recruitment rules there is no such requirement that the certificate should be issued by an institution which is recognized by NCTE. I do not see any merit in this contention. The National Council for Teacher Education Act (the Act) rules and regulations came into being since 1993. The object of Act is as under:--

"An Act to provide for the establishment of a National Council for Teacher Education with a view to achieving planned and coordinated development of the teacher education system throughout the country, the regulation and proper maintenance of norms and standards in the teacher education system and for matter connected therewith."

The Section 14(1), (3) and (4) read as under:--

"14. (1) Every institution offering or intending to offer a course or training in teacher education on or after the appointed day, may, for grant of recognition under this Act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations:

Provided that an institution offering a course or training in teacher education

immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee.

(2)

(3) On receipt of an application by the Regional Committee from any institution under sub-section (1), and after obtaining from the institution concerned such other particulars as it may consider necessary, it shall.--

(a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfills such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations; or

(b) if it is of the opinion that such institution does not fulfill the requirements laid down in sub-clause (a), pass an order refusing recognition to such institution for the reasons to be recovered in writing:

Provided that before passing an order under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the concerned institution for making a written representation.

(4) Every order granting or refusing recognition to an institution for a course or training in teacher education under sub-section (3) shall be published in the Official Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government."

Section 16 of the Act reads as under:--

"16. Notwithstanding anything contained in any other law for the time being in force, no examining body shall, on or after the appointed day,--

(a) grant affiliation, whether or provisional or otherwise, to any institution; or

(b) hold examination, whether provisional or otherwise, for a course or training conducted by a recognized institution,

unless the institution concerned has obtained recognition from the Regional Committee concerned, under section 14 or permission for a course or training under section 15."

10. If the aim, object and scheme of the Act is examined, it will be crystal clear that every institute offering a course or training in teacher education must be recognized by statutory body i.e. NCTE. Thus, it goes without saying that degree or diploma must be a degree or diploma from the recognized institution.

11. At the cost of repetition, in my opinion, whether or not it is mentioned in the recruitment rules, it is necessary that educational qualification of teacher must be from an institution duly recognized by NCTE. In absence thereof, the employee/candidate lacks minimum essential eligibility condition. This deficiency makes them ineligible and makes his appointment illegal.

12. In view of provisions of NCTE Act, I am unable to hold that the D.Ed. Qualification of petitioners makes them eligible. The question of eligibility goes to the root of the matter. Since petitioners are held to be ineligible for the reasons stated above, I do not find any justification in dealing further with the matter on the anvil of principles of natural justice. Resultantly, I find no illegality in the order passed by the respondents.

13. Petition is bereft of merits and is hereby dismissed.

14. In view of the order passed in WP No. 4574/2014, I am unable to hold that the petitioner is having minimum essential qualification. Thus, no interference is warranted in this matter. Writ Petition is bereft of merit and is hereby dismissed.