
(1992) 11 RAJ CK 0025

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1287 of 1992

Ram Chandra Swami and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 11-11-1992

Acts Referred:

Constitution of India, 1950 — Article 32

Citation : (1992) 2 RLW 281 : (1992) 3 WLC 407 : (1992) 2 WLN 419

Hon'ble Judges : R.S. Verma, J

Bench : Single Bench

Judgement

R.S. Verma, J.—This writ petition apparently raises a very minor and insignificant controversy. However, a false step by this Court here or there may lead to grave and serious evil consequences resulting in irremediable damage to the "Child" of the State, the future citizen and indeed a sacred charge entrusted to the care and custody of the Nation. Hence, this short preface to put the controversy in a clearer perspective.

2. Primary Education in Rajasthan has two distinct sectors. The urban sector is looked after by the Director of Primary & Secondary Education, under whose control and supervision are run Government primary schools in cities and towns of the State. The rural sector of primary education is controlled and supervised by the various Panchayat Samities. For Panchayat Samities in a district, there is a statutory autonomous body known as District Establishment Committee (for short DEC) which recruits primary schools teachers and after initial recruitment allots them to various Panchayat Samities within its territorial jurisdiction.

3. Petitioners before me claim that they possess requisite qualifications for being appointed as teachers in Panchayat Samiti Schools. All of them, as stated at the bar by their learned Counsel Shri P.P. Chaudhary, have passed Higher Secondary Examination conducted by the Rajasthan Board of Higher Secondary Education, an autonomous body. The said examination is admittedly equivalent to matriculation or matric examination. Admittedly, the petitioners have not been

trained as teachers at any institution imparting training for teaching. However, each one of them possesses a State Trade Certificate, each one of them having completed and passed a course in cutting and tailoring run by various institutions in the State, which are recognised by State Vocational Training Council, Certificates Ex. P.1 to Ex. P.7 evidence this fact.

4. The DEC, Zila Parishad, Churu (respondent No. 2) issued advertisement (Ex.P.12) No. 5 of 1991 whereby it invited applications for a specified number of posts of teachers for Primary Schools under its control, the number of posts being liable to variation as per administrative exigencies. All the petitioners applied in pursuance of this advertisement. However, the DEC refused to consider their cases on the ground that they did not possess requisite qualification viz. the teachers' training certificate. The petitioners contend that the State Govt. has recognized the State Trade Certificate as equivalent to the B.S.T.C. (the recognized teachers training course run in the State) and hence they possess the requisite qualifications and are eligible to be considered and appointed. It is on these premises that they have come to this Court inter alia seeking a direction that the respondents may be directed to consider the petitioner's candidature for appointment on the post of General Teachers in primary schools treating the State Trade Certificate as equivalent to the B.S.T.C. with all consequential reliefs.

5. A reply to show cause notice issued by this Court has been filed by respondent No. 1. Since both the respondents are represented through a common lawyer, the stand taken by respondent No. 1 has been adopted by respondent No. 2 also and it is urged that the petitioners, not being trained teachers, have no right to be considered and the DEC rightly refused to consider their candidature.

6. I have heard the learned Counsel for both the parties and have bestowed my earnest consideration to the rival contentions. In the forgoing paragraphs I have briefly outlined the rival stands and shall deal with various contentions raised on behalf on either side.

7. Here, I may reiterate and repeat that today's child is tomorrow's citizen and the nation owes a special responsibility toward the children of today so that they shape as ideal citizens and serve the nation in this fast moving world, which is full of competition in all walks of life. The founding fathers of the Constitution of India were aware of the special responsibilities and obligations that the nation owed to its children, the citizenry of future, a sacred trust in every sense of the term so that the nation could redeem its pledge, which it took on 15th August, 1947. The preamble to the Constitution promises to usher in a welfare State where shall be secured to all its citizens, Justice, Social, economic and political, liberty of thought, expression, belief, faith and worship and equality of status and of opportunity.

8. I may here state that in our Constitution Children have been bestowed special care and attention and rightly so. Article 15(3) enables the State to make special provisions for women and children. Article 24 mandates that no child below the

age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment. Article 39 (f) mandates that the State shall, in particular, direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. Article 45 mandates the State to provide for free and compulsory education for all children until they complete the age of 14 years. Now, education in this context means a purposeful and meaningful education which allows a child to develop its personality in all its dimensions and faculties. Such education is expected to develop cognitive skills and motivation for higher learning so that the curiosity of an impressionable mind is satiated and he seeks further knowledge and advances on the social, moral and physical planes. Children reading in primary Schools are like soft clay, which can be shaped and moulded by a master craftsman; they are like newly budding saplings, who need tender care and attention by persons specially trained in child psychology and modern techniques of teaching. It is rather unfortunate that over the years, we have failed to give a fair treatment to the primary school teacher. The apex Court in AIR 1939 SC 183 Andhra Kesari Education Society v. Director of School Education had to make this observation:

Before parting with the case, we should like to add a word more. Though teaching is the last choice in the job market, the role of teacher is central to all processes of formal education. The teacher alone could bring out the skills and intellectual capabilities of students. He is the engine of the educational system. He is a principal instrument in awakening the child to cultural values. He needs to be endowed and energised with needed potential to deliver enlightened service expected of him. His quality should be such as would inspire and motivate into action the benefiter. He must keep himself abreast of ever changing conditions. He is not to perform in a wooden and unimaginative way. He must eliminate fissiparous tendencies and attitudes and infuse nobler and national ideas in younger minds. His involvement in national Integration is more important, indeed indispensable. It is, therefore, needless to state that teachers should be subjected to rigorous training with right scrutiny of efficiency. It has greater relevance to the needs of the day. The ill trained or such standard teachers would be detrimental to our educational system; if not a punishment on our children. The Government and the University must, therefore, take care to see that inadequacy in the training of the teacher is not compounded by any extraneous consideration.

(emphasis mine)

The aforesaid observations are all the more pertinent and germane to the training of primary school teachers, who have to handle very young, delicate and impressionable minds.

9. In Ram Sukh and Others Vs. State of Rajasthan and Others, the apex Court was dealing with cases of untrained teachers who claimed to be continued as

teachers, even when they did not possess any training as teachers. The apex Court, though having all sympathies for the plight of the hapless teachers who had been thrown out of jobs, refused to mandate their continuance in service and after referring to the observations made in Andhra Kesari Education Society Case (*supra*) observed:

The primary school teachers are of utmost importance in development of a child's personality in the formative years. It is not just enough to teach the child alphabets and figures, but much more is required to understand child psychology and aptitudes. They need a different approach altogether only trained teachers could lead them properly. The untrained teachers can never be proper substitute to trained teachers. We are therefore, unable to give them any relief.

(emphasis mine).

10. In my opinion, this is the back drop in which the entire controversy has to be viewed. I pointedly and repeatedly asked the learned Counsel for the petitioner if the petitioners, while being trained in cutting and tailoring, had been imparted any training in teaching techniques. He candidly confessed that the training imparted to the petitioners was in the craft of cutting and tailoring. His principal thrust was that since the State Govt. at certain points of time had recognised the State Trade Certificate equivalent to the B.S.T.C. (a recognised teacher's training course), the petitioners were entitled to be appointed as teachers. However, more of this later. Suffice it to say, that I put a question to the parent in me and ask if I would entrust my children or grand children to the care of such untrained teachers? My conscience gives a categorical answer that I would not in any situation. I could not entrust them for primary teaching to the care of the petitioners and their likes. However, it would be a different matter, if the children were to be trained in the craft of cutting and tailoring and were not required to be taught their lessons in primary education, which is foundation for all future learning. If foundation is left weak, the entire edifice may be weak.

11. I may here state that in its counter, respondent No. 1 has made a very categorical and positive assertion that "S.T.C. and N.T.C." courses are technical courses which are useful for technical training like craft, wooden work, tailoring etc. and these subjects are not taught at the level of primary schools and such training is not inverted (*sic*) (probably "infecund") in such primary schools. Therefore, S.T.C. and N.T.C. trained teachers are not required by the Panchayat Samities." The petitioners did not controvert this stand of the contesting respondent. Hence, it can be safely held that craft, cutting and tailoring are not the subjects taught at primary level in Panchayat Samiti Schools and hence the S.T.C. Certificates held by the petitioners have no relevance to the pattern of primary school education in the State.

12. "Shikshaka Shiksha Vibhag" of the Rajasthan State Research and Training Institution, Udaipur (for short SIERT Udaipur) has published a booklet entitled "Poorva Shikshak Prashikshan Shiksha Kram" (1989) Edition which lays down the

objectives to be achieved by training of schools teachers:

^^ f"kk izf"kk.k ikB~;dze&vof/k ,oa mn~ns";

vof/k %& ;g ikB~;dze f}rh; laLFkkxr ikB~;dze gksxk A ;g nks "kSf{kd l=ks es IEiUu gksxkA Ik=kpkj }kjk IEiwfrZ djkus ij blds fy, 30 ekl dh vof/k fu/kkZfjr jgsxh A

ijh{kk O;oLFkk %& 1- nksuks o"kksZ dh ijh{kk O;oLFkk Ik`Fkd&Ik`Fkd gksxh A

2- ijh{kk dk vk;kstu iath;d] f"kk{kk foHkkxh; ijh{kk,] jkt- chdkusj }kjk fd;k tk;sxkA

3- izR;sd o"kZ es IS)kfUrd Ik{k es 8 iz"u Ik=ks }kjk ijh{kk yh tk;sxh A fdz;kRed vY;kl f"kk{k.k Ik{k dh ijh{kk vkUrfjd rFkk okg~; ijh{kk ds :Ik es IEiUu gksxh A

4- izk;skfxd dk;ksZ dk ewY;kadu iw.kZr% vkUrfjd ewY;kadu }kjk fd;k tk;sxk A

5- ijh{kk O;oLFkk ,oa d{kSkfUur IEcU/kh IHkh fu;e mifu;eks dk fu/kkZj.k iath;d }kjk funks"kd] jkT; "kSf{kd vuqla/kku ,oa izf"kk{k.k laLFkku mn;iqj dh lgefz ls rS;kj fd;k tk;sxs rFkk os gh Lohdk;Z gksxs A

f"kk{kd izf"kk{k.k ds mn~ns"; % &

jk"V?h; f"kk{kk uhfr] 86 ds lanHkZ es vk, ifjorZuks rFkk Ldwy f"kk{kk ds dBksj ikB~;dze ?Con-carriculum? dks n`f"Vxr j[krs gq, jkT; ds f"kk{kd izf"kk{kky;ks ls izf"kk{kr fd;s tkus okys v;/kidks ds izf"kk{k.k dk;Zdze es ifjorZu dh vko";drk dsk /;ku es j[kdj ;g u;k ikB~;dze izLRkkfor fd;k tk jgk gSA bl ikB~;dze ds vk/kkj ij izf"kk{k.k iznku djus ls v;/kid lekftd ifjorZu ds l"kdR vfHkdj.k ds :Ik es dk;Z dj ldsxk A rFkk jk"V?h; izxfr ds egr~ mn~ns"; dh izkfIr es lgk;d fl) gks ldsxk A bl n`f"V ls jkT; ds f"kk{kd izf"kk{k.k ikB~;dze ds fy, fuEukfdar mn~ns"; fu/kkZfjr fd;s x;s gS%&

1- izf"kk{k.kFkhZ & "kSf{kd fl)kUrks dh tkudkj izkIr dj ckydks es pfj= ,oa ekuo ewY;ks ds izfr vkLFkk fodflr dj lds A

2- izf"kk{k.kFkhZ cky fodkl IEcU/kh euskfoKku dks le> cw>dj rnu:Ik f"kk{k.k dk;Z dj lds A

3- izf"kk{k.kFkhZ vko";drkuqlkj iwoZ izkFkfed fo|ky;sk Lrj ds ckydks dk leqfpr ekxZn"Zu ns lds rFkk muds KkusfUnz; ds fodkl es lgk;d cu lds A

4- izf"kk{k.kFkhZ mPp izkFkfed Lrj dh fo"K; oLrq dk vH;kl djrs gq, dyk f"kk{k.k es n{krk mRiUu djus dh n`f"V ls d{kk?;kiu IEcfU/k fofo/k fLFkfr;ks dk Kku ,oa vH;kl izkIr dj lds A

5- izf"kk{k.kFkhZ dks "kSf{kd] lg&"kSf{kd ,oa vU; fo|ky;h izo`fRr;ks ls IEcfU/kr fofHkUu Ik{kks ls ifjfr djuk rkfd og vius fo|ky; es bu izo`fRr;ks dk dq"ky ,oa n{krk iwoZ vk;sktu dj ldsA

6- izf"kk{k.kFkhZ es ,slh psruk mRiUu djuk fd os ckyd&ckfydkvks es visf{kr vocks/k] dkS"ky] :fp;kW] vfHko`fRr;kW] thou ewY; vkfn fodflr djus dh n`f"V ls

f" k{k.k dk;Z dk vk;sktu dj ldsA

7- izf" k{k.kkFkhZ es ckyd&ckfydkvks ds izfr ldkjkRed n` f"Vdks.k fodflr djrs gq, ,sls dkS"ky ls fodflr djuk fd os ckydks dh oS;fDrd ,oa lekftd leL;kvks dsk le> dj mu rd igqpka lds ,oa ;Fkko"d ijke" kZ ns lds A

8- izf" k{k.kkFkhZ fofHkUu izdkj ds ikB :iks ,oa f" k{k.k dksS"kyks dh tkudkj ,oa vH;kl izkIr dj fofHkUu fo" k;ks dk n{krkiw.kZ v/;kiu dj lds A

9- izf" k{k.kkFkhZ "kkfjjhd f" k{k.k] LokLF; f" k{k.k] lektksi;ksxh mRiknd dk;Z ,oa dyk f" k{k.k dk thou dk;Z es mldk IQyrkiwoZd ykHk ys lds A rFkk rRIEcU/kh izo` fRr;ks dk lapkyu dj lds A

10- izf" k{k.kkFkhZ fo|ky; Lrj ij vuqHkwr leL;kvks dk lek/kku

12- izf" k{k.kkFkhZ dyk f" k{k.k es vuqHkwr vko;"drvks ds vk/kkj ij vf/kxr lkexzh ds fuekZ.k ,oa miyC/k vf|xr lkexzh dk d{k f" k{k.k es izHkkoh

13- izf" k{k.kkFkhZ es f" k{k.k O;olk; ds izfr vkLFkk ,oa O;kolkf;d leqUu;u ds izfr Kku iSnk gks lds rFkk vPNs f" k{k.k ds xq.k ,oa mlds lekt dh vis{k kvks ds izfr tkx:drk iSnk gks ldsA

14- izf" k{k.kkFkhZ f" k{k.k ,oa fo|ky; izcU/k ls IEc) fofHkUu Ik{kks dh tkudkj djrs gq, muls IEcfU/kr vfHkys[kks ds lk/kj.k vuqj{k.k vuqHko vftZr dj lds A

15- izf" k{k.kkFkhZ izkFkfed f" k{k.k ds lkoZtfuddj.k ds lUnHkZ es vukSijpkfjd f" k{k.k ,oa rRIEcU/kh fofHkUu izk;kstukvks ls ifjp; izkIr dj lds A rFkk oafpr leqnk; dk losZ{k.k djus] leL;k vf|xe izlax dh jpuk djus dh ;skX;rk fodflr dj lds A

16- izf" k{k.kkFkhZ f" k{k.k {ks= dh vfHkuo Ikzo`fRr;ks fopkj.kvks ,oa dk;Z ;kstukvks ls ifjpr gksdj f" k{k.k dk;Z es vko;"drkuqlkj iz;ksx dj lds A

17- izf" k{k.kkFkhZ lkeqnkf;d thou es f" k{k.k O;olk; ls IEcfU/kr nkf;Roks dks fuHkkus dh ;skX;rk vftkZr dj lds A rFkk fo|ky; ,oa leky ds chp e/kqj ,oa fudV IEcu/k LFkkfir djus ;skE; cu lds A

18- izf" k{k.kkFkhZ es lekt Isok ,oa uSfrd vkoj.k ds izfr n` < fu"Bk iSnk dj lds rFkk vius ckydks ds le{k uSfrd f" k{k.k ls IEcfU/kr Ik{kks dks izLrqr djus dh ;skX;rk mRiUu gks lds A

19- izf" k{k.kkFkhZ ckydks dh miyC/k LRkj dk vfHkkKku djus dh n` f"V ls fofHkUu izdkj ds tkap Ik= cukus ,oa ewY;kadu dh vfHkuo fo/kkvks dk iz;ksx djus es n{krk izkIr dj lds A

20- izf" k{k.kkFkhZ nsSfud f" k{k.k vf/kxe dkZ djus ds nkSjku ckydks dh detksjh;sk dk irk yxk dj mudks nwj djus ds nkSjku ckydks dh detksjh;ks dk irk yxkdj mudks neu djus dh n` f"V ls mipkjkRed f" k{k.k dj lds A

21- izf" k{k.kkFkhZ fodkl" khy Hkkjr dh vk"kkvks ,oa vkdkak{kkvks ds vuq:Ik fofHkUu mUur f" k{k.k rduhdks ,oa midj.ksk dk iz;ksx dj ldus dh ;skX;rk vftZr dj lds A

I have abstracted the above to show what a standard syllabus for teachers' training should consist of and what objectives, it is required to fulfill. To my mind, the S.T.C. Certificate, Ex. P.1 to Ex. P. 7 filed by petitioner do not in any way even touch the fringe of a standardised teachers' training course and obviously these certificates have no claim to be treated as teachers training certificates in any sense of the term.

13. Faced with this situation, learned Counsel for the petitioner strenuously contended that for appointment as primary school teachers, it was not necessary to have any training at all. He contended that under the existing Rules, it was sufficient that the petitioners were matriculates or held equivalent qualifications. i.e. Higher Secondary Qualification. In this context, he invited me to examine the provisions of Rajasthan Panchayat Samitis and Zila Parishads Service Rules, 1959 (for short the Rules). I have carefully gone through the Rules and find that the contention has no legs to stand upon. Under the Rules, a Panchayat Samiti and Zila Parishad Service has been constituted. Primary School Teachers have been included in this service by virtue of Rule 4, the relevant entry being at S. No. 3. Rule 10 of the Rules deals with recruitment, direct recruitment being one of such modes. Rule 11 lays down that a recruit to the various categories of service must possess the minimum educational or technical qualification and experience detailed in schedule to the Rule. This schedule underwent revision from time to time. This very question pertaining to the schedule & its contents was raised in an earlier writ petition and was negatived by a learned single Judge of this Court (See WLR 1992 Raj. 144-Sarda Panchayat Samiti v. State of Raj. The learned single Judge deciding the writ traced a detailed history of the various amendments in the rules and categorically found that now there exists only one category of teachers viz. "matric trained" teachers. This very question was agitated before a Full Bench of this Court in 1992 WLR Raj 138 Bhansrodgarh Panchayat Samiti v. State of Raj. and the finding of the learned single Judge was categorically affirmed. In view of this categorical finding, I need not repeat the history of various amendments culminating in the aforesaid position. Shri Chaudhary tried to urge that the Full Bench decision has not correctly dealt with the various amendments and the judgment is per incuriam. I fail to find any such infirmity in the full bench decision and I do not agree that the judgment has been rendered in ignorance of any legal provision. I may here state that the position was already clinched on this aspect by decision of the apex Court in Ram Sukh's case (supra) which precisely dealt with the cases of primary school teachers of Panchayat Samities in Rajasthan. Learned Counsel for the petitioner strenuously contended before me that judgments in Sarda Panchayat Samiti (supra) and Bhansrodgarh Panchayat Samiti (supra) and Ram Sukh's case (supra) were rendered per incuriam. But, this argument is not open to him before this bench which is bound by the decision of the Full Bench of this Court as also by the decision of the apex Court. A Co-ordinate bench alone can entertain such a plea. This aspect has also been discussed in quite some details in Bhansrodgarh panchayat Samiti case and I need not dilate any further upon

this aspect of the matter. Suffice it to say that I am bound by decision rendered in Sarda Eanchayat Samiti as affirmed by the Full Bench in Bhensrodgarh Panchayat Samiti.

14. Now, I may deal with the contention that at certain point of time, the certificates obtained by petitioners were recognized by the State Govt. as training equivalent to teachers training and it was later on that the recognition was withdrawn. The stand of petitioners is that they had obtained their certificates during this interval and hence subsequent de recognition could not affect their right of being considered and appointed on basis of such certificates. Reliance is placed in this regard on judgment of the apex Court in Suresh Pal and Others Vs. State of Haryana and Others, Reliance has also been placed upon certain decisions of this Court which relying upon ratio of Suresh Pal have held that N.T.C. certificates was equivalent to B.S.T.C. certificate for purposes of appointment on the post of teachers in Primary Schools run by Panchayat Samitis in Rajasthan. Before I deal with these precedents, I may trace the history of recognitions and derecognitions pertaining to qualifications for primary school teachers. Ex.P. 11 is circular dated 8.2.73 whereby the certificate course of Vidhya Bhawan Udaipur was accorded equivalence to the B.S.T.C. course (teachers training course run by Govt.) with effect from the date Vidhya Bhawan had started a course equivalent to the said B.S.T.C. course. This clearly spells out that recognition was accorded to that course of Vidhya Bhawan which was to be of the same type as B.S.T.C. course run by the Govt. Thus, recognition was accorded to a parallel course of teachers training run by Vidhya Bhawan. Ex. P.13 is copy is a circular dated 11.12.74 whereby certificates of Industrial Examinations of Rajasthan Govt. were accorded equivalence to Arts and Handicrafts Examination of Vidhya Bhawan, Udaipur. The circular does not specify if this recognition was accorded in connection with teachers' training qualification requisite for primary school teachers. It may be stated that the certificate of Industrial Examination was not a teachers' training course at all. Then came order dated 7.1.85 issued vide circular No. F/139/15-52 (sic) which clarified that B.S.T.C. and N.T.C. were different courses altogether and N.T.C. had been recognised only for teaching craft (sic) and N.T.C. holders were not eligible to be appointed as teachers in Panchayat Samities (emphasis supplied). This was followed by another Govt. circular dated 6.11.85 issued vide F/139/15-42/(sic) which reiterated the position that N.T.C. holders were not eligible to be appointed as Teachers in Panchayat Samiti Schools. Then came another circular Ex. P. 8 dated 11.6.87 which said that certificate in Cutting and Tailoring issued by State Technical Vocational Training Council were to be treated as equivalent to National Trade Certificate for Cutting and Tailoring. It appears that the entire mischief was created by a letter Ex. P.10 issued by Deputy Director in Rural Development and Panchayat Raj. Department whereby he informed certain Vikas Adhikaris that the qualification in question was also recognised for appointment of teachers in general category. It may be stated that it was not a circular or Govt. order but was merely expression of opinion of a minor minion of the Govt. However, the

subject matter of the letter indicated that the letter was in connection with appointment of teachers in Craft, Physical Education, Drawing and Panting. This letter could not amount to a conscious decision of the Govt. to recognise N.T.C. as training for primary school teachers. This was followed by an order issued by Director, Technical Education, Rajasthan, Jodhpur (Ex. P.9 dated 1.7.89) whereby it was stated that a recommendation had been made to State Govt. that S.T.V.T. holders may be given similar opportunities of employment as were available to N.C.V.T. holders and the State Govt. had accepted the recommendation and all departments were required to amend their service Rules so as to make S.T.V.T. holders eligible for appointment to different services. Now, this makes it abundantly clear that an amendment was envisaged in various service Rules. However, the fact is that the Rules were never amended to incorporate N.C.V.T. or S.T.V.T. as a qualification for appointment as Primary School Teacher.

15. On the contrary, the Govt. has come out with a categorical order dated 30.10.1992, which deserves to be quoted in extenso. It reads.

16. Hence, the position is that no conscious decision was ever taken to recognise the State Trade Certificate as equivalent to teachers training for appointment in Panchayat Samities or general teachers, though it does appear that specialised courses like S.T.C. were recognised as good qualification for teaching specialised subjects like Craft, music, physical education and drawing and painting. At this very juncture, I may note that under the Rajasthan Educational Subordinate Service Rule, 1971 craft teacher grade third had been recognised as a separate category altogether. Likewise, there is a separate category of Physical training teachers grade third under the Rules. No such separate categories exist under the Rules in question and the Govt. Circular dated 30.10.1992 makes it explicit that Panchayat Samiti Schools do not require teachers in the said categories. When it is so and these subjects are not at all taught in the Panchayat Samiti Schools, it is idle to contend that teachers with such specialised training should be thrust upon Panchayat Samiti Schools, particularly when they are ill equipped, rather not at all equipped to teach as general category teachers. Rural education has already received a low priority in the scheme of things and imposition of such teachers in Panchayat Samiti Schools would result in denying to the thousands of children a right and proper atmosphere of education, which properly trained teachers alone could create and generate.

17. Now, I may deal with the precedents cited at the bar. Learned Counsel for the petitioners greatly relied upon a D.B. decision of this Court in D.B. Civil Writ Petition No. 3250/88 Jagdish v. State and D.B. Civil Writ Petition No. 3351/88 Jess Ram v. State decided by a common order dated May 26, 1989. These were cases where petitioners held degree of B.A. followed by State Trade Test Certificates. Initially, they got appointment as teachers in Panchayat Samities but their services were sought to be terminated on the ground that they were not qualified to be appointed as teachers. The Division Bench interfered and quashed the orders terminating the services of the petitioners and directed their

reintatement, treating them to be qualified. It appears that in doing so, the Division Bench relied upon an earlier judgment of another Division Bench decision rendered in case of Harpal Singh v. State D.B. Civil Writ Pet. No. (not legible) decided on 19.1.1988. It appears that an earlier decision of this very D.B. consisting of Hon''ble D.L. Mehta and S.S. Vyas, Judges (as they were) rendered on 17.11.1988 in D.B. Civil Writ Petition No. 1458/88 Babu Lal v. State of Raj. was not brought to their notice when they decided Jagdish and Jess Ram's case. In Babulal's case, they had already taken a view that NTC/ STC holders were eligible to be appointed only as crafts teachers and not as general category teacher. In that case also services were terminated but the D.B. declined to interfere holding that NTC holders were not entitled to be appointed as teachers in Primary Schools. Learned Counsel for the petitioner also relied upon "D.B. decision of this Court in D.B. Civil Special Appeal No. 177/90 decided on 12.9.90.

18. The aforesaid narration goes to show that there is a conflict of opinion even amongst Division Bench decisions of this Court. Learned Counsel for the petitioner vehemently urged that I should hold D.B. decision rendered in Babulal's case (supra) as per incuriam but he forgets that it is only a bench of co-ordinate jurisdiction which can hold a judgment per incuriam. In my opinion, sitting singly, I can not do so. If any authority is needed for this proposition, reference may be made to Bhensrodgarh Panchayat Samiti (F.B.) supra, which has discussed this aspect in great details.

19. At this very juncture, I may mention some more pertinent facts. It appears that some similar trained teachers approached the Hon''ble apex Court by way of filling a writ petition under Article 32 of the Constitution of India WP No. 122/1992-Jeeta Ram and Ors. v. State of Raj. and Ors. In that case, services of the petitioners were threatened to be terminated. Their Lordships, upon an application for interim relief being made, directed issue of notices to respondents and further respondents not to terminate their services but gave liberty to State of Rajasthan to absorb such petitioners as teachers in craft subjects. A similar order was passed in the SLP filed against judgment rendered in Shyamlal's case by a D.B. of this Court (supra).

20. Shri P.P. Chaudhary strenuously contended that the controversy raised before this Court stands concluded by judgment of the apex Court rendered in Suresh Pal and Others Vs. State of Haryana and Others, as held in at least two single Bench decisions of this Court Viz., Judgment of Hon''ble the Chief Justice in S.B. Civil Writ Petition No. 64/1991 Manohar Lal Tailor v. State and Ors., Judgment of Hon''ble J.R. Chopra, J in Shyam Lal Joshi and Ors. v. State of Raj. and Ors. S.B. Civil Writ Petition No. 1614/89 decided on 12.1.1990 and Judgment of my learned brother G.S. Singhvi, rendered in a batch of writ petitions viz., S.B. Civil Writ Petition No. 537/89. Jagdish Prasad v. State and Ors. and nine other writ petitions decided on (date illegible) and judgment in D.B. Civil Special Appeal No. 177/90 State v. Shyamlal & Ors. (supra). But, all these judgments have no

application to the changed scenario in as much as that a conscious decision has been taken not to appoint any crafts teacher in Panchayat Samiti Schools because craft is not taught as a subject in these schools.

21. Shri P.P. Chaudhary submitted that this decision could only be prospective and not retrospective and hence selection process, which was commenced by issuing the advertisement in question, could not be stultified by such a decision of the government, not to fill up the posts. Shri Vijay Bishnoi submits that even if the decision is taken to be prospective, after issue of Notification dated 30.10.1992, no appointment to the post of teachers in Primary Schools of Panchayat Samities could be made from amongst persons, who did not possess "teachers training" as implicit in the relevant provisions of the Rules.

22. I have considered the rival contentions carefully. First of all I may allude to Suresh Pal's case. In that case petitioner had obtained training for Physical Instructors in an institute recognised for this purpose. However, later on the State of Haryana derecognised this training. It was held that this derecognition during the course of training should not disentitle the petitioners for being considered for appointment as physical instructors. In the present case, the petitioners never received any training for teaching primary classes. They did receive a training in cutting and tailoring, a subject no longer taught in Primary Schools in Panchayat Samities. The order stating that no appointments were to be made in craft as a subject was not available before the Hon'ble the Chief Justice and other Hon'ble Judges of this Court, when the aforesaid decisions were rendered. In my opinion, when crafts teachers are no longer required, the petitioner and their likes cannot be appointed to Panchayat Samiti Schools on the basis of their training in crafts sans training in primary school teaching.

23. I am aware that there is large scale unemployment in the country. The view I have taken may add to the misery of unemployed youth like the petitioners. But, the future of the children in the State is at stake. They are our destiny. No compromise can be made where their education is concerned. Hence, appointment of petitioners as teachers in general category cannot be countenanced. The executive government may find out ways and means to employ them as craftsmen, where their services may be needed.

24. I could have disposed of the writ petition finally on the aforesaid premises but since there is conflict of opinion among D.B. decisions on a vital point involved, hence dictates of judicial propriety demand that I request the Hon'ble the Chief Justice to constitute a larger bench of at least three Judges to consider the following legal issue:

Whether after decision of apex Court in Ram Sukh's case (supra), training in craft obtained by the petitioners could at all be treated as training in teaching as implicit in the Rules and as envisaged in Ram Sukh's case and if so, whether petitioners are entitled to be appointed as general category teachers even though craft is not being taught as a subject in Primary Schools run by Panchayat

Samities of Rajasthan?

The matter may, therefore, be placed before Hon"ble the Chief Justice to constitute a larger bench as suggested at an early date. After the larger bench has answered the matter may be listed before the Court.