
(2015) 04 SHI CK 0021
In the High Court Of Himachal Pradesh
Case No : L.P.A. No. 210 of 2014

Ram Nath

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 07-04-2015

Acts Referred:

Citation : (2015) 04 SHI CK 0021

Hon'ble Judges : Mansoor Ahmad Mir, C.J.; Tarlok Singh Chauhan, J.

Bench : Division Bench

Advocate : H.S. Rana, for the Appellant; Sharwan Dogra, Advocate General, Anup Rattan, Additional Advocate General, J.K. Verma and Kush Sharma, Deputy Advocate Generals, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Tarlok Singh Chauhan, J.—Appellant is the writ respondent and is aggrieved by the judgment of the learned writ Court, whereby the claim of the writ petitioner (respondent No. 4) herein came to be allowed and his appointment to the post of Art and Craft Teacher came to be quashed.

2. The writ petitioner had challenged the appointment of the appellant on the ground that the appellant had passed 10+2 examination from the Board of Secondary Education, Madhya Bharat, Gwalior (M.P.), which Board was not recognized in the State of Himachal Pradesh for the purpose of employment and therefore, his appointment be quashed. This plea was accepted by the learned writ Court and the appointment of the appellant was set aside.

3. Learned counsel for the appellant has strenuously contended that the findings recorded by the learned writ Court are not sustainable in view of the fact that the essential qualification for the post in question was Matric and diploma in Art and Craft, whereas +2 was only an additional qualification and therefore, his appointment could not have been set aside only on the ground that +2 certificate possessed by the appellant was not a valid one. In the alternative, it is argued

that even the findings regarding the certificate not being valid, was also erroneous.

We have heard the learned counsel for the parties and perused the records.

4. At the outset it may be observed that in so far as the essential qualification is concerned, even the respondents herein have not disputed that it was Matric and diploma in Art and Craft which alone were the essential qualification for filling up the post in question and therefore, to that extent the appellant's submissions have to be accepted. It has also not in dispute that only additional marks were to be awarded for +2 examination.

5. In view of the admitted position, this Court is then only required to consider the validity of the +2 certificate possessed by the appellant.

6. The learned writ Court vide its order dated 18.9.2014 had directed the official respondents to file a supplementary affidavit "as to whether the qualification obtained by the appellant was duly recognized for the purpose of employment in the State of Himachal Pradesh."

7. In compliance to the aforesaid directions, respondents filed a supplementary affidavit, wherein it has been pointed out that the qualification of +2 as possessed by the appellant was not recognized by the Government. The relevant portion of the affidavit reads thus:--

"2. That in this regard it is submitted that the private respondent No. 4 i.e. Sh. Ram Nath has passed his intermediate Examination (10+2) from Board of Secondary Education Madhya Baharat, Gwalior (M.P.) and he was offered appointment as Art and Craft teacher by the respondent No. 3 i.e. Deputy Director of Elementary Education Solan being the appointing authority on 21.7.2011. It is further submitted that as per the information received from the HP Board of School Education, Dharamshala, District Kangra, H.P., Board of Secondary Education Madhya Bharat, Gwalior (MP) is not recognized by H.P. Board of School Education Dharamshala, District Kangra, H.P. Hence, the qualification of the respondent No. 4 is not recognized for the purpose of employment in Himachal Pradesh." 8. Confronted with this, the learned counsel for the appellant would argue that there is no material available on record which may show that the certificate possessed by the appellant is not recognized for the purpose of job/appointment. It is further argued that the affidavit filed by the official respondents is only to the effect that the Board of Secondary Education Madhya Bharat, Gwalior (MP) is not recognized by the H.P. Board of School Education and it nowhere states that certificate is not recognized for the purpose of employment. It is lastly argued that once the aforesaid Board is duly recognized by the Ministry of Human Resources and Development, then there is no reason as to why the same should not be recognized by the State Government.

9. There is inherent fallacy in the first submission made on behalf of the

appellant, in as much as, it is only after the recognition of qualification by the Government that one can claim eligibility and further claim a right of consideration. But here is a case where an affidavit has been filed by the State, wherein it has categorically been stated that the qualification possessed by the appellant (+2) is not recognized for the purpose of employment in Himachal Pradesh.

10. At this stage, we may advert to Annexure P-6, containing list of boards, universities and bodies which are not recognized by the Himachal Pradesh Board of School Education for the purpose of admission to higher studies. The Board of Secondary Education Madhya Bharat, Gwalior, finds mention in this list and figures at Sr. No. 20.

11. Thus, viewed from any angle, it can safely be concluded that though the +2 examination was not a necessary qualification for being appointed as Art and Craft Teacher, but then separate marks for Matric and thereafter for any higher qualification including +2 were to be awarded. In case the marks of the appellant in +2 are excluded then admittedly it is the writ petitioner who is more meritorious and is required to be appointed.

12. In so far as the last submission of the appellant regarding the certificate being duly recognized by the Ministry of Human Resource Development is concerned, suffice it to say the same holds no water. The Ministry of Human Resources and Development (for short MHRD) has itself put up a public notice dated 28.10.2013 informing the general public that on the basis of fake letter the Board of Secondary Education Madhya Bharat, Gwalior is claiming to be an MHRD recognized Board of School Education, while it is not so. It is apt to reproduce the public notice, which reads thus:--

"Government of India Ministry of Human Resource Development Department of School Education and Literacy

Shastri Bhawan, New Delhi, Dated 28th October, 2013

PUBLIC NOTICE

It is hereby informed to the general public that on the basis of a fake letter purported to be issued by Shri B.K. Ray, Under Secretary of Sanskrit-I Section, Ministry of Human Resource Development, Department of Higher Education, Shastri Bhawan, New Delhi, the Board of Secondary Education Madhya Bharat, Gwalior is claiming to be an MHRD recognized Board of Secondary Education. It is clarified that Shri Ray was never posted to Sanskrit-I Section of this Ministry. Also, Sanskrit-I Section does not deal with the grant of recognition of School Boards. Criminal action against the management of the above School Board is being initiated.

2. It is also informed that the Education Boards are set up by Central/State/UT Governments by an Act of Parliament or State Legislature or an Executive Order of the Central/State Governments. There are two national level school Boards

viz. Central Board of Secondary Education (CBSE) and National Institute of Open School (NIOS) under the Department of School Education and Literacy, Ministry of Human Resource Development.

3. All the students and their parents are, therefore, advised to take note of the above facts. It is further advised to confirm authenticity from this Ministry of any Board claiming recognition letter having been issued by any Section of the Ministry.

sd/- (Dinesh Kumar) Under Secretary to the Govt. of India"

The upshot of the aforesaid discussion is that there is no merit in this appeal and the same is accordingly dismissed. The judgment passed by the learned writ Court is upheld, leaving the parties to bear their own costs.