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**(2021) 11 SHI CK 0055**

**In the High Court Of Himachal Pradesh**

**Case No : Civil Writ Petition No.5838 Of 2021**

Ramesh Chand Sharma And Others

APPELLANT

Vs

State Of H.P And Others

RESPONDENT

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**Date of Decision : 17-11-2021**

**Acts Referred:**

**Citation : (2021) 11 SHI CK 0055**

**Hon'ble Judges : Mohammad Rafiq, CJ;Sabina, J**

**Bench : Division Bench**

**Advocate : R.L. Chaudhary, H.R. Sidhu, Seema Sharma**

**Final Decision : Disposed Of**

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## **Judgement**

Mohammad Rafiq, CJ

1. This writ petition has been filed by 13 writ petitioners, some of whom are working on the post of Shastri, while some others are Language Teachers. It is contended in the writ petition that the respondent-State carried out amendment in the Recruitment and Promotion Rules of Shastri and Language Teachers, vide notification dated 27.8.2012, in the light of provisions of the Right to Education Act, 2009, thereby introducing the eligibility qualification of degree of Shastri with minimum 50% marks from any recognized University or B.Ed. Degree or qualification of Teachers Eligibility Test (TET Shastri) organized by the Himachal Pradesh Subordinate Selection Board, Hamirpur.

2. Thereafter the respondents on 16.11.2013, further amended the Recruitment and Promotion Rules of Language Teachers and as per clause (a) of the amended Rules, the essential qualification for Language Teacher is B.A. with Hindi as an elective subject and two years diploma in elementary education or as detailed out in para 4 of the writ petition.

3. Learned counsel for the petitioner contended that the aforementioned amendments were carried out in the light of the Right to Education Act, 2009 and

the respondents, on that basis, maintained that B.Ed. is essential qualification, but when the petitioners were taken on employment, on contract basis, they are not holding the said essential qualification. Therefore, a condition was imposed that they will be required to acquire requisite qualification within a period of five years. Resultantly, the petitioners requested the respondent-Department to grant them permission to undertake the said course of B.Ed. Respondent No.1, on being approached by respondent No.2, issued clarification dated 30.6.2017, regarding the condition of acquiring minimum qualification as per the R & P Rules, qua the petitioners. As per the said clarification, the petitioners have to acquire the essential qualification i.e. B.Ed. Degree on or before 16.8.2018 or else their services would be liable to be terminated. Consequently, respondent No.2 issued a letter dated 31.8.2017 to respondent No.1, seeking clarification with regard to the different categories of 'trained in service' teachers and respondent No.2 concluded that as per NCTE Guidelines, B.Ed. is essential training for Shastri and Language Teachers. A proposal was sent to Himachal Pradesh University to consider Shastri without OT training and Language Teacher without LT training for admission to B.Ed. course from International Centre for Distance Education and Open Learning (ICDEOL), for in-service teachers in view of the RTE Act and NCTE Guidelines.

4. On 7th September, 2017, respondent No.1 issued clarification with regard to different categories of 'trained-in-service' teachers to respondent No.2 and keeping in view the facts of the case of the petitioners, respondent No.2 was directed to take immediate necessary action to consider Shastri without OT training and Language Teacher without LT training for admission to B.Ed. course through ICDEOL of Himachal Pradesh University in view of the RTE Act. The Registrar of the Himachal Pradesh University issued a letter dated 9.10.2017 to respondent No.3, conveying that they were unable to admit Shastri teachers without OT and Language Teacher without LT in B.Ed. Course through distance mode until these categories are considered as 'trained-in-service' teachers in terms of the norms laid down by NCTE for admission to B.Ed. Programme.

5. Learned counsel for the petitioner has referred to earlier order dated 27.11.2017 in O.A. No.5923 of 2017, order dated 17.7.2018, in Contempt Petition No.22 of 2018, and order dated 28.5.2019, in Execution Petition No.100 of 2018, passed by the erstwhile H.P. Administrative Tribunal and lastly, order dated 5.4.2021, passed by this Court in COPCT No. 977 of 2020, and argued that the case of the petitioners is similar to the ones, whose cases were decided by this Court. Reference is made to the last order dated 5. 4.2021, wherein it was mentioned that the 'trained-in-service' teachers certificates are being issued in compliance to the order of the Administrative Tribunal dated 27.11.2017, referred to supra, but with enormous delay. The Court observed that the University was also party to the proceedings before the Administrative Tribunal, it shall entertain the certificates issued to the petitioners by Education Department even at this belated stage as a valid certificate deeming it to have been issued prior to 25.3.2021 as certificates issued to the petitioners are to be related back

to November, 2017 and be treated to have been issued as such.

6. Ms. Seema Sharma, learned Deputy Advocate General submitted that the respondents shall examine the individual case of the petitioners on their merits and if they are found similar to those, who have already been issued the certificates pursuant to the last order dated 5.4.2021, they shall do the needful accordingly.

7. In view of the above, the writ petition is disposed of with a direction to the respondents to examine the present matter on case to case basis and issue required certificates, within a period of two weeks from today. In case, anyone of them is not found eligible, communication shall be addressed to him/her with reasons. Pending application(s), if any, shall also stand disposed of.