

(2011) 03 OHC CK 0020

In the Orissa High Court

Case No : Writ Petition (C) No. 1860 of 2011 (With Batch)

Ratikanta Dutta and Others

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 29-03-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 21A, 254
Orissa Right of Children to Free and Compulsory Education Rules, 2010 — Rule 15, 16(2), 16(4)
Right of Children to Free and Compulsory Education Act, 2009 — Section 2, 23, 23(1), 23(2), 29(1)

Citation : (2011) 03 OHC CK 0020

Hon'ble Judges : H.S. Bhalla, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

H.S. Bhalla, J.—The petitioners in these batch of writ petitions are seeking modification of the Government resolution dated 10.1.2011 by virtue of which the minimum qualification has been fixed as +2 C.T. excluding Matric C.T. The petitioners have also prayed for a direction to opposite party no. 1 to fill up the posts of Sikhya Sahayak on the ratio of 60:40 between the Matric C.T. and B.Ed. candidates. Thus, the question of law and facts involved in these petitions being same and arise from the same cause of action, they are heard together and are disposed of by this common order.

2. A thick better took place on the better field of the Government resolution and in order to appreciate the point involved in these writ petitions,

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it is necessary to reproduce clauses 4.2 and 6.1 of the aforesaid resolution dated 10.1.2011, which runs as under:

4.2. Vacant posts as well as newly created posts in the elementary schools on

account of opening of new Primary/upper Primary Classes or due to Up-gradation of existing Primary Schools to Upper Primary Schools or opening of Class-VIII by way of up-gradation of existing Upper Primary Schools shall be filled up by the candidates having the qualification of +2 Science, Arts/Commerce (or its equivalent examination declared by appropriate authority) and C. T. Training or +2 Science, Arts/Commerce (or its equivalent examination declared by appropriate authority) and 2 year Diploma in Education (Special Education) a course recognized by Rehabilitation Council of India (RCI) and B.A., B.Sc. (or as equivalent Examination declared by appropriate authority) and B.Ed, or B.A., B.Sc. (or its equivalent examination declared by appropriate authority) and one year B.Ed (Special Education) a course recognized by Rehabilitation Council of India (RCI) as per the requirement under each category.

As per Section 23(2) of the said Act, read with rule 16(2) and (4) of the said Rules the State Government shall request the Central Government for relaxation of the prescribed minimum qualification as laid down by the academic authority for appointment of teachers. The candidates with lesser qualification will be considered for appointment only on the basis of qualification so relaxed by the central Government.

Untrained candidates selected as per the relaxed standard shall furnish an affidavit at the time of engagement to the effect that they shall acquire the required training qualification within a period of 5 years at their own cost.

6.1. The candidates must have passed +2 Science, Arts/Commerce (or its equivalent examination declared by appropriate authority) and C.T. Training from a recognized Board/University or +2 Science, Arts/Commerce (or its equivalent examination declared by appropriate authority) and 2 year Diploma in Education (Special Education) a course recognized by Rehabilitation Council of India (RCI) or B.A., B.Sc. (or its equivalent examination declared by appropriate authority) and B.Ed. from a recognized University or B.A., B.Sc. and one year B.Ed. (Special

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Education) a course recognized by Rehabilitation Council of India (RCI). The +2 candidates must have odia as a subject up to class-VII and B.Ed. candidates must have Odia as a subject up to class-X.

3. Most of the petitioners being Matric with C.T qualification are seeking engagement in the post of Sikshya Sahayak. As per their case the qualification of a teacher in the Primary Schools was Matric with C.T training and the Government of Orissa, School and Mass Education had published the resolution dated 10.01.2011 for engagement of Sikshya Sahayaks in different districts in the State of Odissa. As per the said resolution, the policy of engagement of Sikshya Sahayak is to provide free and compulsory education to all children of the age group of six to fourteen years. In order to provide free and compulsory education to every child, opp. party no.1 is proposing to fill up all the vacant posts as well as newly created posts in the elementary schools on account of

opening of new primary/upper primary classes or due to up-gradation of existing primary schools to upper primary schools or opening of class-VIII by way of up-gradation of existing upper primary schools. The petitioners have further pleaded that the Orissa Elementary Education (Method of Recruitment and conditions of Teachers and Officers) Rules, 1997, hereinafter to be referred as "Rules, 1997" is the only Rule for the elementary teachers which deals with method of recruitment, qualification, and promotion of teachers of elementary schools, i.e., Primary schools and Upper primary schools. It is further pointed out that the existing statutory Rule, i.e. Rules, 1997 clearly stipulates that the Orissa Elementary Education Service, Level-V shall consist of the post of Asst. Teachers of Govt. Primary Schools and also Assistant Teachers of Govt. Upper Primary Schools. It further stipulates that in order to be eligible for direct recruitment to the post belonging to Level-V of the service, a candidate must have passed High School certificate Examination or an equivalent Examination and must have completed Secondary Teachers Training/Certified Teachers course from a recognized Board or University. Therefore, the case of the petitioners is that the minimum eligibility for an Asst. Teacher of Primary and Upper Primary schools is H.S.C. pass with C.T. Training, i.e. Matric with C.T. training. As per the said resolution, Sikshya Sahayaks will be recruited to work in Primary, Upper Primary and Upgraded Upper Primary Schools i.e. up to Class-VIII, but the minimum eligibility entry qualification has been prescribed in the said resolution as +2 Sc./Arts/Commerce with C.T. Training or +2 Science/Arts/Commerce without training and excludes the trained Matric qualified candidates from the eligibility criteria. So the petitioners have filed the present writ petitions challenging exclusion of Matric C.T. qualified candidates as well as exclusion of those persons who have become over age due to non-recruitment for a

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number of years, from the eligibility criteria as per the Rules, 1997, which is the only available statutory Rule in the State of Orissa for recruitment and promotion of elementary teachers. Finally it has been prayed by the present petitioners that direction be issued for modification of the resolution as stated above with other ancillary prayer.

4. On the other hand, the writ petitions were contested by the opposite parties and opposite party no.1 has filed a counter affidavit in W.P.(C). No. 1860 of 2011, which was also adopted by the opposite parties for the purpose of other writ petitions and a statement was suffered by the learned counsel for the opposite parties that the counter be read in all other writ petitions. Most of the assertions raised by the petitioners have been denied by the opposite parties. However, it is categorically pleaded that the petitioners have sought for modification of resolution of the Government dated 10.01.2011, inter alias, on the ground that there is no avenue for the Matric C.T. candidates for being absorbed as Sikshya Sahayak, which violates the procedure for recruitment of elementary Teachers of Level-V, under the Rules, 1997. As per the case of the

opp. parties, there has been provisions for appointment of the candidates having minimum qualification of +2 (Senior Secondary) trained onwards. Hence, this trained qualification is reflected therein under the facts and circumstances of the case. Therefore, the case of the petitioners is not liable to be accepted on facts and law. It is further pleaded that recruitment process under the impugned resolution is completely different from the recruitment of Primary teachers so envisaged under the Rules, 1997, because it has now become paramount consideration of the circumstances which has arisen in the context of 86th Amendment of the Constitution of India by introducing Article 21-A of the Constitution, providing that the State has to make endeavour to provide fundamental right of free and compulsory education to the children up to Class-VIII. In order to regulate the same, the Parliament has enacted the law and the State has taken minimum steps to ensure the right of children to free and compulsory education. The eligibility criteria has been stipulated for engagement of Sikshya Sahayak to teach the children in elementary level. It is further pointed out that the earlier recruitment of Sikshya Sahayak pursuant to the resolution dated 19.11.2009 was called in question in W.P.(C) No. 1361 of 2010 and many other cases, which were decided in a common judgment on 29.06.2010. But the facts and circumstances at that point of time when the judgment was delivered are totally different than the present stage. The petitioners in the present writ petitions have attempted to equate the facts and circumstances of the present case with the judgment in the aforesaid case, which is totally not justified in the eye of law because at that point of time, the Sikshya Sahayaks were sought to be appointed under

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different circumstances and were given the chance of being absorbed after some years. As against the said resolution, it was contended that as they (Sikshya Sayaks) were to be absorbed in future, the mode of selection prescribed therein will be conflicting with regard to procedure of recruitment of the Elementary Teacher as envisaged under the Elementary Teacher Recruitment Rule, 1997. It was further pleaded on behalf of the State that such recruitment of Sikshaya Sahayaks at that point of time was sought on the pretext of the Right to Education Act, which came into being and the Court after analyzing all the facts and submissions, came to the conclusion that by such time, since the effect of Right to Education Act had not come into being, the State could not have resorted to such procedure on the pretext of the Right of Children to Free and Compulsory Education Act, 2009, hereinafter to be referred to as the "Act, 2009". In that background, this Court quashed the resolution, however, gave liberty to the Government to take further steps for appointment of Sikshya Sahayak as per the existing Rules and procedure. It is further categorically pleaded that the existing Rules and procedure, so indicated, obviously means that by the impugned resolution which has come into force by virtue of the Act, 2009, the Right of Children to Free and Compulsory Education Rules, 2010, and other ancillary steps taken therein. Now by strictly adhering to the same, steps

are taken for appointment of Sikshya Sahayaks, which are completely different from the teachers recruited under the Rules, 1997. It is further pleaded that resolution has been issued keeping in view the norms fixed by National Council for Teachers Education (NCTE) being an academic authority for appointment of teachers (Sikshya Sahayak) in elementary schools. It is further pleaded that the State Government has prescribed the minimum qualification as +2 with C.T. and accordingly clauses 4.2 and 6.1 have been provided under the resolution in consonance with the above statutory Act and Rules. It is also pleaded that Sikshya Sahayak scheme has been introduced for engagement of Sikshya Sahayaks by the Collector-cum-CEOs, Zilla Parishads on annual contract basis under the financial assistance of Government of India and State Government. The said contractual appointment will be renewable subject to satisfactory performance of the candidate during the operation of the scheme of Sarva Sikshya Abhijyan and the Rules, 1997 is not applicable to the Sikshya Sahayaks as per the Act, 2009. By denying other assertions raised in the writ petitions the opp. parties have prayed that all writ petitions be dismissed.

5. Some of the petitioners opted to file rejoinder, wherein they have reiterated the stand taken in the petitions and denied the assertions raised by the other side in their counter.

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6. have heard learned counsel for the petitioners, learned Counsel appearing for the School and Mass Education Department and OPEPA.

7. At this stage, I would like to observe that it is the paramount consideration of the State in view of 86th Amendment of the Constitution of India by introducing Article 21-A of the Constitution to provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine. The Parliament has enacted the law by virtue of the said amendment and as per the power under Entry No. 25 under concurrent list of the constitution namely the Right of Children to Free and Compulsory Education Act, 2009 which has come into force w.e.f. 01.04.2010. u/s 38 of the Act, 2009, the State Government has framed Rules titled as "the Orissa Right of Children to Free and Compulsory Education, 2010" (in short called as "Rules, 2010"). In view of this, the State is required to take immediate steps to ensure the right of the children to free and compulsory education to the children and the impugned resolution has been issued by the Government by virtue of the powers under the said Act and Rules and the eligibility criteria has been fixed for engagement of Sikshya Sahayak to teach the children up to elementary level.

8. Before proceeding further, it is necessary to peep through Section 2 (f) of the Act, 2009 which defines "elementary education" as education from class-1 to class-VIII and as per the counter affidavit filed by the State, Class-VIII has already been opened in 6774 Upper Primary (M.E.) Schools having classes up to Class-VIII, thereby upgrading the said schools. The Schedule to the Act clearly

spells out that for sixth class to eighth class at least one teacher per class so that there shall be at least one teacher each for (i) Science and Mathematics, which presupposes that teacher having both Science and Mathematics is one of the subjects, (ii) Social Studies, (iii) languages. In this manner, it is crystal clear that from classes VI to VIII, there being three classes, there should be three teachers, who are required to be (i) Science and Mathematics, (ii) Social Studies and (iii) Languages and it was on account of all these, the Government have superseded all the earlier resolutions for engagement of Sikhya Sahayaks under the Sarva Sikhya Abhiyan. To my mind, therefore, as a special right, such special recruitment of Sikhya Sahayaks is being made, which is entirely on a different platform for recruitment of teachers under the Elementary Rules, 1997. It appears that they will also perform the duties of helper and as such, they are totally different from each other and there is no conflict and all these being introduced to achieve a different object. It is true that earlier also recruitment of Sikhya Sahayaks on account of the resolution dated

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19.11.2009 was called in question in W.P.(C) No. 1361 of 2010, which was decided on 29.6.2010, but the judgment was passed on the basis of the facts and circumstances existing at that point of time. The petitioners tried to equate the facts and circumstances of that case and the judgment in the present circumstances, which is totally not justified in the eye of law because it is the admitted case of both the parties that at that point of time the Sikhya Sahayaks were sought to be appointed under a different circumstances and were given chance of being absorbed after some years. Moreover recruitment of Sikhya Sahayaks at that point of time was sought under the Right to Education Act and this Court after analyzing the entire case came to the conclusion that by such time since the effect of Right to Education Act has not come into being, the State could not have resorted to such procedure in the pretext of the Act, 2009 and in that background, this Court quashed the resolution and liberty was granted to the Government to take further steps for appointment of Sikhya Sahayaks as per the existing Rules and Procedure and now steps are being taken by the State Government which are completely different from the teachers recruited under the Rules, 1997. The eligible candidates of the State in respect of their respective place of residence has a right to apply for such Education District and a candidate of a particular district may apply in his own district or for any other district of his choice. It was also clarified that a candidate has to limit his application for one district, meaning thereby, that the candidate has the option to choose the district. In the instant case, the resolution in question, to my mind, has been issued for implementation of the newly enacted Central Act, namely, "The Right of Children to Free and Compulsory Education Act, 2009", and the Orissa Right of Children to Free and Compulsory Education Rules, 2010, which were framed in consonance with the said Act. It is further admitted case that the appointment of Sikhya Sahayaks is going to be made under the Sarva Sikhya Abhiyan, a time bound scheme of the Central Government, which is being implemented by the

State Government in accordance with the norms fixed by National Council for Teachers Education (NCTE), being an academic authority for appointment of teachers in elementary schools, which is followed by the State Government. As per the criteria laid down by the NCTE, the State Government has prescribed the minimum qualification as +2 with C.T. and accordingly, clause 4.2 and 6.1 have been provided under the Resolution No.587/S & ME dated 10.01.2011 in accordance with the guidelines laid down under the Act and allied Rules. It is settled law that any qualification fixed in contravention of the prescribed qualification determined by the Regulation made by the NCTE. was bad. After having gone through the resolution, I find that the government in school and mass education Department fixed the guideline for engagement of Sikhya Sayakhak in accordance with the revised norms of Sarva Sikhya Abhiyan, a Centrally

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sponsored plan scheme and in consonance with the provisions of Act.2009. The NCTE being the academic authority authorized by the Central Government in exercise of the powers conferred by sub-section (1) of Section 23 of the Act, 2009, by notification dated 23.8.2010 has laid down minimum qualification for a person to be eligible for appointment as teachers in Class -I to Class-V and Class-VI to Class-VIII in the schools referring to clause (n) of Section 2 of the Act, 2009. It is true that the word "teacher" has not been used in the resolution, but after having gone through the resolution in its entirety, I find that the Sikhya Sahayaks in same manner would step into the shoes of the teacher either by helping a teacher to teach the students or by directly teaching the students in the elementary level. As per the notification of the NCTE, the minimum qualification for a teacher of schools having classes I to Class-V is +2 (Senior Secondary) with two years Diploma in Elementary Education (C.T.) and the minimum qualification for a teacher of a school having Class-VI to VIII is B.A., B.Sc. with B.Ed. In view of all these, I find that the clauses 4.2 and 6.1 of the resolution are justified and in consonance with the revised norms of Sarva Sikhya Abhiyan and as per the provisions of Act, 2009.

9. The Sikhya Sahayak are going to be engaged within a particular time frame for implementation of the Central sponsored Scheme, namely, Sarva Sikhya Avian. In the scheme the sharing pattern of funds of the Central Government and the State Government is at the ratio of 65% and 35% respectively. If the Scheme is not implemented within the stipulated period, the State will have to refund the amount pertaining to the share of the Central Government which may be detrimental to public interest of the State. It is the obligation of the State to furnish the utilization of fund so as to justify funding for the next financial year in the interest of the State's progress and development and unless the State utilizes the fund in proper implementing the scheme in time, the object to ensure the fundamental right to education under Article 21-A of the Constitution will be frustrated. In such a situation the State may be de-listed of getting the benefit

and implementing the scheme under the Act, 2009. Moreover Rules, 1997 is applicable for the recruitment of regular teacher who hold the civil post under the elementary cadre and the said Rule is not applicable so far as engagement of Sikhya Sahayaks under a particular scheme is concerned. The resolution further spells out that the employees are to be engaged on annual contract basis subject to operation of the scheme. As per the provision u/s 23(1) of the Act, 2009 and Rule 15 of the Rules, 2010, the eligibility criteria with regard to qualification for engagement of teacher has been framed, which lays down that any person possessing such minimum qualification by an academic authority authorized by the Central Govt. by a notification shall be

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eligible for appointment as a teacher whereas Act 23(2) lays down that if a State does not have adequate institution offering courses or teaching in teacher education or teachers possessing minimum qualification as laid down under sub-Section (1) are not available in sufficient numbers the Central Government may, if it deems necessary, by notification, relax the minimum qualifications as required for appointment as a teacher for such period not extending five years, as may be specified in that notification provided that a teacher who at the commencement of the Act does not possess the qualification as laid down in sub-section (1), shall acquire such minimum qualification within a period of five years.

10. The Government of India by way of notification dated 31.03.2010 in exercise of the power conferred by sub-section-1 of Section 29 of the Act, 2009 authorized the NCTE to formulate all curriculum and evolution procedure for elementary education as an academic authority. In exercise of the powers conferred under sub-section (1) of Section 23 of the Act, the Central Government also authorized the NCTE as academic authority to lay down minimum qualification for a person to be eligible for appointment as a teacher. The relevant portion of notification dated 23.8.2010 of NCTE stipulating the minimum qualification runs as under:

In exercise of the powers conferred by Sub-section (1) of Section 23 of the Right of Children to Free and Compulsory Education Act, 2009(35 of 2009) and in pursuance of Notification No.S.O.750(E) dated 31st March, 2010 issued by the Department of School Education and Literacy, Ministry of Human Resource Development, Government of India, the National Council for Teacher Education (NCTE), hereby lays down the following minimum qualifications for a person to be eligible for appointment as a teacher in Class I to VIII in a school referred to in clause (n) of Section 2 of the Right of Children to Free and Compulsory Education Act, 2009 with effect from the date of this notification:

1. Minimum qualifications:

(i) Classes I-V

(a) Senior Secondary (or its equivalent) with at least 50% marks and 2-year

Diploma in Elementary Education (by whatever name known)

OR

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Senior Secondary (or its equivalent) with at least 45% marks and 2-year Diploma in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure), Regulations 2002

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (B.E.Ed)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education (Special Education)

AND

(b) Pass in the Teacher Eligibility Test (TET) to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

(ii) Classes VI-VIII

(a) B.A./B.Sc. and 2-year Diploma in Elementary Education (by whatever name known)

OR

B.A./B.Sc. with at least 50% marks and 1-year Bachelor in Education (B.Ed.)

OR

B.A./B.Sc. with at least 45% marks and 1-year Bachelor in Education (B.Ed.) in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor in Elementary Education (B.E.Ed).

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year B.A./B.Sc. Ed. Or B.A.Ed/ B.Sc.Ed

OR

B.A./B.Sc. with at least 50% marks and 1-year B.Ed.(Special Education)

(b) Pass in the Teacher Eligibility Test (TET) to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

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11. The State Government published the impugned resolution and the consequential advertisement by quoting the aforesaid minimum eligibility criteria with regard to educational qualification of Sikhya Sahayaks from Class I to Class-VIII in accordance with the norms, procedure, guidelines, Act, 2009 and Rules, 2010. The State Government has also clarified that the policy decision was taken by the State by eliminating the residential status in consonance with Articles 14 and 16 of the Constitution of India and in pursuance of the earlier decision of this Court. I find that in order to avoid multiplicity of litigation, the applicants have been instructed to file application in their respective education district on his/her own choice and as such, I find that the State has not committed any illegality so far as residential part is concerned. With regard to age, as has already been stated, age relaxation cannot be done as such relaxation has already been given in the resolution and the advertisement that a candidate under general category up to 42 years can apply for the post. Moreover, the petitioners have not challenged the Act, 2009 or the Rules, 2010, basing upon which the impugned resolution has been passed and the advertisement has been published. Unless the said Act and Rules are set aside, the claim of the petitioners are devoid of merit and as such, the same are liable to be rejected.

12. Now at this stage I would also like to assess the case of the petitioners from different angle and to my mind unless and until there is infringement of fundamental right, the policy decision of the State or the Union cannot be interfered with. At the cost of repetition, in the present case, the Constitution has introduced Article 21-A in the 86th amendment that the State has to make endeavour to provide fundamental right to free and compulsory education to the children up to Class-VIII. In order to regulate the same, the Parliament has enacted the law by virtue of the said amendment so also as per power under Entry 25 under concurrent list of Constitution, namely, Act, 2009 and the State was given power to frame rule u/s 38 of the said Act and pursuant to which the State framed the Rules, 2010. The impugned resolution is in consonance with the existing Act and Rules and moreover, it is settled that the policy decision cannot be challenged and the petitioners cannot take any benefit if the State has taken policy decision in the interest of the public. The State has authority and power to specify the method of recruitment and under its inherent power to revise and substitute the same and the petitioners have no right to claim the appointment on the basis of earlier notification. The petitioners cannot dictate their terms to the Government in order to change the eligibility criteria and the State has passed the resolution declaring the eligibility criteria strictly in accordance with the criteria laid down by the academic authority, i.e. NCTE.

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13. It is settled law that the Government has a right to change its policy from time to time according to administrative exigencies and demands of the relevant time. As a matter of fact, the Courts would be slow in interfering with the matters of Government policy except where it is shown that the decision is unfair, malafide or contrary to any statutory directions. In the instant case, in response to the advertisement, 1,88,000 applications were received by the Government for engagement of Sikhya Sahayak in their newly created policy in order to fill up 24,000 posts, meaning thereby that 24,000 persons who are eligible as per the resolution in question are being engaged and the present petitioners cannot stall their engagement nor can they dictate their terms to the Government in order to change the eligibility criteria, which has been fixed by the Government strictly in accordance with the policy of the academic authority, i.e., NCTE. There is no justification for this Court to interfere with the policy of the Government merely on the ground of change in the policy. The Government has taken a different policy decision in order to implement the scheme floated by the Central Government, the major portion of which is being funded by the Union of India. Moreover, to my mind, keeping in view the facts and circumstances put-forward by both the parties, the prescribed eligibility qualification for engagement of Sikhya Sahayak in the newly floated scheme under the Act, 2009 and the Rules, 2010 are the matters to be considered by the appropriate authority. It is not for the Courts to decide whether a particular educational qualification should or should not be accepted. Learned counsel appearing for the opposite parties have rightly submitted that the resolution has been issued strictly in accordance with the norms fixed by the academic authority with regard to educational qualification. Moreover, it does not appeal to reasoning that the Sikhya Sahayaks having qualification of Matriculate would be able to assist the teachers or in other words would be able to teach the students at elementary level-V. Higher qualification is always good for the betterment of the children, and quality education can only be provided by a person having higher educational qualification. It does not appeal to reasoning at all that a teacher having qualification of Matric would be able to impart good quality education to the students studying in Class I till Class-VIII. The present petitioners cannot force the candidates, who are being appointed, to board a sinking ship. It is in the public interest of the State of Orissa that the policy which has been formulated by the Government of India wherein the Government of India is contributing 65% of the funds for the scheme specially floated for appointment of Sikhya Sahayak under the Sarva Sikhya Aviyan, which continues without any interruption and no hurdle can be created by the petitioners in the policy matter of the Government of India as well as State of Orissa.

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14. I have gone through the law referred to by the learned counsel for the petitioners in T.M.A. Pai Foundation v. State of Karnataka, (2002) 8 SCO 481, P.A. Inamadar v. State of Maharashtra, (2005) 6 SCC 527, Miss. Alakha Das v. Director, T.E. & SCERT, 1995(11) OLR, 145, Chandramani Jena and others v. State

of Orissa and others, 2007(H) OLR.577, Govinf A. Mane and others v. State of Maharashtra and others. AIR 2000 SC 1576, Minor A. Peeriakaruppan and Sobha Joseph Vs. State of Tamil Nadu and Others, Gajendra Singh and others v. Ajaya Singh and others, 2010 LAB.I.C., 2388, State of Rajasthan Vs. R. Dayal and Others, and Y.V. Rangaiah and Others Vs. J. Sreenivasa Rao and Others, . A reading of the aforesaid rulings would show that they bear no resemblance to the facts of the instant case and do not in any manner support the point canvassed in the context of the nature and circumstances of the present case.

15. It is well settled principle of law that Court cannot read anything into a statutory provision, which is plain and unambiguous. The language employed in a statute is determinative factor of legislative intent. If the language of the enactment is clear and unambiguous, it would not be proper for the courts to add any words thereto and evolve some legislative intent, not found in the statute. In Dr Ganga Prasad Verma and Others Vs. State of Bihar and Others, , it has been held that where the language of the Act is clear and explicit, the court must give effect to it, whatever may be the consequences, for in that case the words of the statute speak the intention of the legislature.

16. The State has no competence to make Rules in contravention of the regulations/notifications issued by the Union of India and declared by the academic authority. I am of the considered opinion that in such circumstances, the State is fully justified in amending the requisite qualification. Moreover, in view of Article 254 of the Constitution, Rules, 1997 have got absolutely no application to the matter in question.

17. In view of what has been discussed above, I find that no modification is required in the impugned resolution and there is nothing to be set right and in the final analysis, the writ petitions are dismissed. Parties are left to bear their own cost.