

(2005) 08 MP CK 0089

In the Madhya Pradesh High Court

Case No : Writ Petition No. 9162 of 2005

Shri Wardhman Academy for Technical Education and Others	APPELLANT
Vs	
State of Madhya Pradesh and Others	RESPONDENT

Date of Decision : 30-08-2005

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (2005) 4 MPHT 279 : (2006) 1 MPLJ 467

Hon'ble Judges : R.V. Raveendran, C.J.; Dipak Misra, J

Bench : Division Bench

Advocate : K.K. Trivedi, for the Appellant; Vivek Awasthy, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Dipak Misra, J.

Invoking the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India, the petitioner has called in question the constitutional validity of Rule 1.8.4 of Pre-Bachelor of Education Entrance Examination Rules, 2005 (hereinafter referred as to "the Rules"). The said Rule as translated in English reads as under :--

"1.8.4 : Qualifying Marks : In the entrance examination, minimum qualifying marks are prescribed category- wise in the following manner:--

A student who has not obtained the minimum qualifying marks will not be selected for admission in Bachelor of Education course even if pre-fixed seats are remained available or vacant.

(i) For the general category and candidates of other backward classes each and every candidate is required to obtain 150 marks out of 300 i.e., 50% of the total marks.

(ii) The candidates of Scheduled Caste and Scheduled Tribe Community will be

given admission without any restriction of qualifying marks."

At the very outset, we must clarify that Shri K.K. Dwivedi, learned Counsel appearing for the petitioners has abandoned the assail in regard to Rule (ii) of the aforesaid Rules. He has basically confined his challenge to Sub-rule (i) as aforesaid.

It is submitted by Mr. Trivedi that the said Rules are contrary to the Norms and Standard for Secondary Teacher Education Programme fixed by the National Council for Teacher Education (for short "NCTE"). He has commended us to Clause 3 of the said Norms which reads as under :--

"3. Eligibility:

(a) Candidates with at least 45% marks in the Bachelor's/ Master's Degree with at least two school subjects at the graduation level are eligible for admission.

(b) Admission should be made either on the basis of marks obtained in the qualifying examination or in the entrance examination conducted by the University/State Government, as per the policy of the State Government/University, to which the institution is affiliated.

(c) There shall be reservation of seats for SC/ST/OBC, handicapped, Women, etc., as per the rules of the concerned State Government."

It is submitted by learned Counsel for the petitioners that the NCTE has provided 45% marks whereas the State Rules have fixed 50% marks and, therefore, a repugnance has emerged. To appreciate the aforesaid submission, we carefully scanned the eligibility criteria as provided in Clause 3. It provides that a candidate should have at least 45% marks whereas the State Rules have provided 50%. There can be no doubt when the minimum is provided, an additional facet can be made for betterment of education. Be it noted that this is meant for Bachelor of Education Examination. They are imparted training by institutes to educate the students at the school level education in the spinal cord of the nation. It is recorded as second to defence. When a step has been taken by the State Government to enhance by 5% of the marks provided by the NCTE, we do not think that the same is contrary to the Regulation. On the contrary, we are of the considered view that such an addition is within the domain of the regulating power of the State, for the enhancement of the standard of education in the State has to be a real concern and further the same does not run contrary to the criterion fixed by the NCTE as the NCTE has not fixed any maximum percentage. In fact, it has provided for the minimum. Any further criterion, if not to totally arbitrary and irrational, does not invite the wrath of Article 14 of the Constitution. In the case at hand as this is only an addition of 5% of marks as the qualifying marks and that too for a different kind of course, we perceive no irrationality and unreasonability.

Thus judged from both the angles, we do not find any substance to interfere in the matter and hold the rule which is under assail, is intra vires. Consequently,

the writ petition, being devoid of merit, is dismissed in limine.