

**(2006) 06 CHH CK 0002**  
**In the Chhattisgarh High Court**  
**Case No : Writ Petition No. 2119 of 2006**

Smt. Dropati Sahu

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

**Date of Decision :** 22-06-2006

**Acts Referred:**

Madhya Pradesh Recognised Examinations Act, 1937 — Section 2

**Citation :** (2007) 2 MPJR 133

**Hon'ble Judges :** S.R. Nayak, C.J

**Bench :** Division Bench

**Advocate :** Prafull Bharat with Mr. Anoop Majumdar, for the Appellant; Yashwant Singh, Govt. Advocate, for the Respondent

**Final Decision :** Dismissed

## Judgement

S.R. Nayak, C.J.

A short but a question of general importance which falls for decision-making in this batch of writ petitions is whether the Certificate of Madhyama (Visharad) Part II and the Certificate of Uttama (Sahitya Ratna) Part III, both issued by the Hindi Sahitya Sammelan, Prayag, are equivalent to Higher Secondary School Examination and Degree Examination respectively for the purpose of recruitment to the post of Shiksha Karmi Grade-II and Shiksha Karmi Grade-III. Whereas, according to the petitioners, they are equivalent qualifications, according to the respondent State authorities and other respondents they are not.

The undivided State of Madhya Pradesh, in exercise of the powers conferred by Clause (b) of Section 2 of the Madhya Pradesh recognized Act, 1937, have made rules called Madhya Pradesh Panchayat Shiksha Karmis (Recruitment and Conditions of Service) Rules, 1997 (for short "the Rules"). It is the common case of all the parties that under the Rules the prescribed educational qualification for Shiksha Karmi Grade II is a degree in any discipline whereas for the post of Shiksha Karmi Grade III, the prescribed qualification is passing Higher Secondary

School Examination. But, it is the case of the petitioners that Madhyama (Visharad) Part II issued by the Hindi Sahitya Sammelan, Prayag, is equivalent to Higher Secondary School Examination. Similarly, it is the case of the petitioners that the Uttama (Sahitya Ratna) Part III Certificate issued by the Hindi Sahitya Sammelan, Prayag, is equivalent to a Degree. So claiming, the petitioners complain that the respondent - Janpad Panchayats are not justified in refusing appointments to the petitioners on the ground that the above certificates issued by the Hindi Sahitya Sammelan, Prayag, is not equivalent to the Certificate of Higher Secondary School Examination or the Degree, as the case may be.

In the course of arguments, learned counsel appearing for the petitioners would contend that after the Rules came into force, number of instances could be cited where various Janpad Panchayats recognizing the above-noted certificates issued by Hindi Sahitya Sammelan, Prayag as equivalents to the Certificate of Higher Secondary School Examination and the Degree offered appointments to the certificate holders and, therefore, the concerned Janpad Panchayats ought to have recognized the above certificates issued by the Hindi Sahitya Sammelan, Prayag, as equivalents to the prescribed qualifications under the Rules. They would contend that the impugned refusal on the specious ground that the certificates are not equivalents is totally arbitrary and unreasonable.

On the other hand, it was contended by the learned Government Advocate appearing for the State and State authorities that there is absolutely no material to show that the State Government at any point of time recognized the above-noted certificates issued by the Hindi Sahitya Sammelan, Prayag, as equivalent to the prescribed educational qualifications under the Rules. In reply, it was submitted by the learned counsel appearing for the petitioners that in terms of the definition of the "recognized examination" as defined in Clause (b) of Section 2 of the Madhya Pradesh Recognized Examination Act, 1937 read with the schedule thereto, the aforementioned certificates issued by the Hindi Sahitya Sammelan, Prayag, are "recognized examinations" and, therefore, the recruiting agencies under the Rules are bound by that recognition and they cannot refuse to consider the above-noted certificates issued by the Hindi Sahitya Sammelan, Prayag.

The Rules are framed by the State Government of Madhya Pradesh as a donee of the statutory power under the provisions of the Madhya Pradesh Panchayat Raj Adhiniyam, 1993. The authority and the competence of the State Government to prescribe the educational qualifications for the post of Shiksha Karmis Grade II and Grade III is not questioned before me and it could not be questioned. The prescribed qualification under the Rules for the post of Shiksha Karmi Grade III is the Certificate of Higher Secondary School Examination and for the post of Shiksha Karmi Grade II the prescribed qualification is a Degree in any discipline. It is well settled that it is not for the Court nor for anyone else to prescribe or dictate the terms to be recruiting agency as to which qualification could be an equivalent qualification prescribed under the recruitment Rules. It is the

prerogative of the Rule-making Authority to recognize any other qualification which is not specified under the recruitment Rules as unequivalent qualification. Since under the Madhya Pradesh Panchayat Raj Adhiniyam, 1993, only the State Government is empowered to frame recruitment Rules, only the State Government can recognize any other qualification as equivalent qualification to the prescribed qualification and it is not for any other external agency to recognize. Simply because in previous years, may be during the current year also, certain Janpad Panchayats have appointed persons possessing the aforementioned certificates issued by the Hindi Sahitya Sammelan, Prayag as Shiksha Karmi Grade II or Shiksha Karmi Grade III in violation of the mandatory provisions of the Rules, that circumstance itself would not be a justification for the Court to issue a mandamus to a recruiting agency like the Janpad Panchayat to make appointment in breach of the statutory Rules. I say this, because, it is well settled that under no circumstances writ of mandamus shall issue to an authority to do something in breach of the public law requirement and/or in violation of the mandatory provisions of the statutory Rules. At this stage itself, it needs to be noted that the above claim of the learned counsel for the petitioners that even those persons possessing the certificate issued by the Hindi Sahitya Sammelan, Prayag were appointed as Shiksha Karmis Grade II and Grade III was hotly disputed by the learned Government Advocate appearing for the State during the argument. There is no need for this Court to resolve this factual controversy, because, whatever may be the finding over this factual controversy, that will not have any bearing on the decisionmaking in the case. In the circumstances, I cannot take any exception to the respondents recruiting agencies not to consider the case of the petitioners for appointment to the post of Shiksha Karmis on the ground that they do not possess the prescribed educational qualifications and that the certificates issued by the Hindi Sahitya Sammelan, Prayag are not equivalent to the prescribed qualifications. It needs to be noticed that the recognized qualification need not necessarily be an equivalent qualification. Simply because the above certificates issued by the Hindi Sahitya Sammelan, Prayag could be regarded as recognized examinations within the terms of the Madhya Pradesh Recognized Examination Act, 1937, they could not be regarded as the qualifications equivalent to the prescribed qualifications under the Rules in the absence of any order or notification issued by the Government recognizing those certificates as an equivalents to the prescribed qualifications. The Writ petitions are, therefore, dismissed. No costs.