
(1997) 09 AHC CK 0181
In the Allahabad High Court
Case No : C.M.W.P. No. 29275 of 1997

Smt. Kiran Kumari and others	Vs	APPELLANT
State of U.P. and another		RESPONDENT

Date of Decision : 16-09-1997

Acts Referred:

Uttar Pradesh Basic Education (Teachers) Service Rules, 1981 — Rule 5, 8

Citation : (1998) 1 AWC 359 : (1997) 3 UPLBEC 1743

Hon'ble Judges : Sudhir Narain, J

Bench : Single Bench

Advocate : Uma Kant Uniyal, for the Appellant;

Final Decision : Dismissed

Judgement

Sudhir Narain, J.—The petitioners seek writ of mandamus commanding the respondents to treat the educational certificate recognised by the Madhya Pradesh Government known as Buniyadi Prashikshan Patropadhi Course as qualification equal to B.T.C. Course. The petitioners 1 to 8 claim that they completed their Basic Training Certificate Course (Bunlyadi Prashikshan Pramanpatra) awarded by the Madhyamik Shiksha Mandal, Government of Madhya Pradesh, Bhopal. The petitioners No, 9 to 79 have been enrolled in the sessions 1995 to 1997 and have appeared in the final examination in the month of June but the result is still awaited.

2. The respondents advertised certain vacancies in the daily newspaper "Dainik Jagran" dated 17.8.1997 for the post of Assistant Teacher in the Junior Basic Schools in district Sonbhadra. The advertisement lays down certain eligibility conditions for a candidate to be eligible for applying for the post. The last date for submission of the application was fixed to be 31.8.1997 and the interview was to be held on 5.9.1997. Respondent No. 2 issued another Press Release/Publication dated 27.8.1997 whereby it was clarified that all those candidates who had appeared in the B.T.C. Final Year Examination and the result of such candidates having not been declared, could apply for the post of Assistant

Teachers run by the Basic Education Officer but their candidature would be provisional.

3. The grievance of the petitioners is that In the advertisement dated 17.8.1997, inviting the applications for the post of Assistant Teachers in the Junior Basic Schools run by the Basic Shiksha Parishad, Uttar Pradesh, a condition has been laid down that only those candidates who have obtained the Basic Training Certificate (B.T.C.) from the omstotitopm rim no the State would be eligible for appointment in addition to other qualifications for the post advertised.

4. Learned counsel for the petitioner submitted that the petitioners having obtained certificate from a recognised institution, there is no justification for excluding those candidates who have obtained such certificate. It is necessary to refer to Rule 8 of the Uttar Pradesh Basic Education (Teachers) Services Rules. 1981 which provides the academic qualifications :

"8. Academic qualifications.--(1) The essential qualifications of candidates for appointment to a post referred to In clause (a) of Rule 5 shall be as shown against each :

Post

Academic qualifications

(i)

Mistress of Nursery Schools.

Certificate of Teaching (Nursery) from recognised training Institution In Uttar Pradesh or any other training qualification recognised by the State Government as equivalent thereto.

(ii)

Assistant Master and Assistant Mistress of Junior Basic Schools,

High School Examination of the Board of High School and Intermediate Education, Uttar Pradesh or any other qualification recognised as equivalent thereto by the State Government together with the training qualification consisting of a Basic Teacher's Certificate, Hindustani Teachers certificate, Junior Teacher's Certificate of Teaching or any other training course recognised by the State Government as equivalent thereto.

5. The qualification regarding Assistant Teachers and Assistant Mistress of Junior Basic Schools provides that the qualification consisting of Junior Basic Teacher's Certificate, Hindustani Teachers Certificate. Junior Teacher's Certificate of teaching or other training courses recognised by the State Government as equivalent to that. The Rule clearly contemplates that it is for the State Government to recognise other training courses for the purpose of academic qualification of the candidates. The State Government in its order dated 11th August, 1997 had taken a decision that in view of the fact that large number of

candidates who have obtained B.T.C., H.T.C., J.T.C. are available in Uttar Pradesh for the vacancies to be filled up for the post of Junior Basic Schools In the institutions run by U. P. Shiksha Parishad Board, the recognition given to other training courses obtained by the candidates from outside the State of U. P. is derecognised. It was for the State Government to recognise or derecognise the certificates obtained by the candidates regarding the training course for teaching in Junior Basic Schools from other States. In case the Government finds that large number of the candidates are available who have already taken training courses provided by the institutions in the State of Uttar Pradesh, it can limit to the training courses taken by a candidate within the State of Uttar Pradesh.

6. Learned counsel for the petitioner then contended that earlier the certificates obtained by the candidates regarding the training courses completed by the candidates from outside the State of Uttar Pradesh were being recognised and on such recognition the petitioners had completed the training course for teaching in Junior Basic Schools outside the State of U. P., the State Government is estopped later on from derecognising such certificates.

7. The principle of estoppel to be applicable only when a person acts upon a representation made by another person. The mere fact that earlier the State Government recognised the certificates relating to Basic Education Courses completed by the candidates from outside the U. P, does not amount to any representation to such candidates that if a candidate obtains the certificates, his candidature shall be taken under consideration for selection to the post of Assistant Teachers in Junior Basic Schools. Rule 8 itself provides that it is for the Government to recognise training course and certificates as a qualification for considering the candidature of the applicants. In the State of M.P. and Others Vs. Raghuveer Singh Yadav and Others, , it was held that once the Rule has been amended and a fresh notification is issued inviting the applications, such notification shall not be Invalid and the candidate cannot claim that he is entitled for applying to the post advertised on the basis of unamended Rule.

8. In N.T. Bevin Katti, etc., Vs. Karnataka public Service Commission and others, , wherein the selection was held on the basis of the notification dated 6th September, 1969 but after the notification another Government Order was issued changing the mode of selection which was applicable prior to the advertisement, was held to be applicable.

9. In P. Mahendran and others Vs. State of Karnataka and others, , it was held that the selection process is to be completed in accordance with the provisions of the Rule as it stood at its commencement and the amended Rule would not invalidate the selection already made. These cases have no application to the facts of the present case. The Government has already by its order dated 11th August. 1997 clearly indicated that the certificates regarding the Basic Training Course obtained from outside the State of Uttar Pradesh shall not be recognised. In the advertisement dated 17th August. 1997, this aspect was also made clear. The petitioners cannot claim that a writ of mandamus should be issued

commanding the respondents to consider the candidature of the petitioners treating their certificates relating to the Basic Education Course obtained from outside the State of Uttar Pradesh to be valid.

10. In view of the above, there is no merit in this writ petition. It is accordingly dismissed.