

(2012) 04 CHH CK 0039
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 1544 of 2012

Vikas Pratap Singh Rathore	Vs	APPELLANT
State of Chhattisgarh		RESPONDENT

Date of Decision : 09-04-2012

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2012) 3 MPHT 66

Hon'ble Judges : Satish K. Agnihotri, J; Manindra Mohan Shrivastava, J

Bench : Full Bench

Advocate : H.B. Agrawal and Ms. Meera Jaiswal, for the Appellant; A.S. Kachhawaha, Dy. Advocate General for the Respondent/State, for the Respondent

Final Decision : Dismissed

Judgement

1. The petitioner challenges constitutionality of Rules 5 (4) (a) of Chhattisgarh Multipurpose Male Health Worker Admission Rules, 2011 (for short "the Rules, 2011") on the ground that the same is based on unreasonable qualification. The brief facts, in nutshell, are that the petitioner has passed regular High School Certificate Examination (10 + 2) 2007 (Annexure P-2). Thereafter, the petitioner has obtained-Higher Secondary School Certificate Examination (10+2) from the Chhattisgarh State Open School, Raipur (Annexure P-3). The Rule 5 (4) of the Rules, 2011, provides for admission to training programme of Multipurpose Health Workers (MPW), wherein, the minimum qualification is 12th pass under (10+2) system or Higher Secondary School Certificate under old system with Physics, Chemistry & Biology subjects, as regular candidate. The petitioner impugns this provision, as the petitioner has obtained Higher Secondary School Examination Certificate (10+2) under Chhattisgarh State Open School and, as such, he was not eligible to be admitted to MPW training programme under the aforesaid Rule.

2. Shri Agrawal, learned Senior Counsel appearing for the petitioner submits that the petitioner has passed the Higher Secondary School Examination Certificate in

Open School, which is not a part of regular course as prescribed for 12th examination under (10+2) system. Thus, the provision is discriminatory and arbitrary.

3. Shri Agrawal, further submits that even for appointment on the post of health worker, the qualification does not distinguished between regular student and other student, as the same provides for Secondary School Examination under old system or 12th Examination certificate under (10 + 2) system with one year training from Government or duly recognised MWP training center.

4. The petitioner has failed to establish how the qualification prescribed is discriminatory, as a student passing as regular candidate has additional advantage of attending classes and laboratories regularly. The petitioner has obtained Higher Secondary School Certificate Examination, not under old system, but under Chhattisgarh State Open School, which cannot be held as at par with 12th examination certificate under (10+2) system. The educational qualification, as prescribed, appears to be reasonable and based on proper objective, as a health worker is required to have proper schooling as regular student and the fixation of qualification is the prerogative of the employer. The same cannot be flawed on the ground that other students who have passed higher secondary from the open school be treated at par with 12th examination passed under (10+2) system.

5. It is well established principle that while questioning the validity of a statute on the ground of being arbitrary and violative of Article 14 of the Constitution of India, the same must be founded on an intelligible differentia, which distinguishes those that are grouped together from others and (2) that differentia must have a rational relation to the object sought to be achieved by the Act. It is a trite law that there is always a presumption in favour of the constitutionality of a statute and the burden is upon the person who attacks it to show that there has been a clear transgression of the constitutional principles. This rule is based on the assumption, judicially recognised and accepted, that the Legislature understands and correctly appreciates the needs of its own people, its laws are directed to problems made manifest by experience and its discrimination are based on adequate grounds. [See : R.K. Garg and Others Vs. Union of India (UOI) and Others, Public Services Tribunal Bar Association Vs. State of U.P. and Another, State of Haryana Vs. State of Punjab and Another, Government of Andhra Pradesh and Others Vs. Smt. P. Laxmi Devi, , Ashoka Kumar Thakur Vs. Union of India (UOI) and Others, and K.T. Plantation Pvt. Ltd. and Another Vs. State of Karnataka,

6. For the reasons mentioned hereinabove, we are of the considered opinion that the petitioner has failed to prove discrimination, arbitrariness on the touch stone of Article 14 of the Constitution of India in fixing the qualification under Rules 5(4) of the Rules, 2011. As an upshot, the writ petition is dismissed. No order as to costs.