



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Spl. Appl. Writ No. 84/2022

1. State Of Rajasthan And Ors, Through Secretary, Department Of Rural And Panchayati Raj, Government Of Rajasthan, Secretariat, Jaipur.
2. The State Of Rajasthan, Through Secretary, Department Of Education, Government Of Rajasthan, Secretariat, Jaipur.
3. The Director, Elementary Education, Rajasthan, Bikaner.
4. The Chief Executive Officer, Zila Parishad Banswara.
5. District Education Officer, Elementary Education, Banswara.

----Appellants

Versus

Naresh Chandra Patel S/o Dungar Singh Patel, Aged About 33 Years, V.p.o Etauva, Via Barodiya, Teh. Bagidora, Banswara.

----Respondent

For Appellant(s) : Mr. Ayush Gehlot
For Respondent(s) : Mr. Dinesh Kumar Ojha

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE BIPIN GUPTA
Judgment

Reserved on : 03/10/2025

Pronounced on : 01/11/2025

Reportable

Per Mr. Bipin Gupta, J.

1. The present special appeal (writ) has been filed, being aggrieved by the judgment dated 23.02.2021 passed by the learned Single Judge of this Court, whereby the petition filed by the petitioner-respondent herein was allowed, directing the appellant-State to consider the candidature of the respondent based on his graduation mark-sheet. The Court further directed that, after verification of the graduation mark-sheet and other documents, if the petitioner is found eligible, he shall be accorded appointment within a period of two months.



2. The brief facts giving rise to this appeal are that the petitioner had initially filed a writ petition, being S.B. Civil Writ Petition No. 8447/2018, contending that, as per the advertisement issued for the post of Teacher Grade III, Level-I, in District Banswara, he had secured 64.67% marks in the REET Examination, whereas the cut-off for the General category was 60%. Despite this, he was denied appointment. He further asserted in the writ petition that he could not be disqualified from appointment on the ground of having secured only 44.15% marks in the Senior Secondary School Examination, as he had obtained more than the required cut-off marks in the REET Examination.

3. The appellants, who were the respondents in the said writ petition, filed a reply contending that as per the qualifications prescribed in the advertisement, the petitioner did not possess/disclose the requisite qualifications and therefore was not considered for appointment. It was further stated that, according to the minimum qualifications specified in Clause 9.2 of the advertisement, since the petitioner had applied based on his Senior Secondary School Examination qualification along with a two-year diploma in Elementary Education, the minimum required marks in Senior Secondary were 45%. The petitioner, however, did not possess the said qualification as per his own application, and thus was not considered for appointment.

4. The said writ petition remained pending for almost two and a half year and thereafter the petitioner submitted an application for withdrawal of the writ petition with liberty to file a fresh writ petition with better particulars. The writ petition was accordingly dismissed on 17.12.2020 with the aforesaid liberty. Thereafter, the



petitioner preferred a writ petition being S.B. Civil Writ Petition No. 279/2021, wherein, instead of providing better particulars, he did not file the advertisement which he had already submitted earlier. It was contended that, inadvertently, he had not mentioned the fact that he was a Graduate which was also one of the qualification for eligibility and therefore, his graduation mark-sheet shall be considered, as he had obtained his Graduation mark-sheet prior to the issuance of the advertisement. Further, he prayed that since he belongs to the OBC category, he may be granted 5% relaxation as provided under the Notification dated 27.03.2011.

5. The writ petition was allowed by the learned Single Judge vide order dated 23.02.2021, directing the appellants to consider the candidature of the respondent based on his graduation mark-sheet, and after verification, if found eligible, to accord appointment to him.

6. Counsel for the appellants submits that the impugned order passed by the learned Single Judge is without proper appreciation of the factual aspects of the case. He contends that the petitioner had initially filed a writ petition but did not disclose the existence of his graduation mark-sheet in that petition though the petitioner had placed the advertisement on record in the earlier writ petition which has not been placed by him in the present writ petition.

7. He further contended that the advertisement itself prescribed different eligibility criteria, one of which included qualification of graduation. The petitioner did not mention having a degree or mark-sheet of graduation while filling out his form in the year 2018 and thus same was not disclosed in his application. The petitioner's application was based on the Senior Secondary mark-



sheet, the REET examination mark-sheet, and a two-year diploma in Elementary Education.

8. He further stated that since the petitioner had neither claimed any right based on the graduation mark-sheet nor mentioned it in his earlier writ petition and after a lapse of almost two and a half years, for the first time, he disclosed having the graduation mark-sheet in his application for withdrawal of first writ petition and thereafter filed the present writ petition which clearly raises a doubt regarding the authenticity of the graduation mark-sheet.

9. Learned counsel further submitted that the application of a candidate has to be scrutinized strictly on the basis of the information provided by the candidate himself. The advertisement prescribed different eligibility criteria/qualifications, including: (i) Senior Secondary School Certificate with 45% marks along with a two-year diploma in Elementary Education, and (ii) a degree of graduation with a two-year diploma in Elementary Education as an alternative qualification. The petitioner, while filling out the application form, did not seek consideration of his eligibility based on his graduation but instead claimed eligibility on the basis of the Senior Secondary School Certificate. The appellants, therefore, considered the petitioner's eligibility strictly on the basis of the information provided by him at the time of filling out the application form. Accordingly, after a lapse of two and a half years, he cannot now seek a direction from the Court to be considered eligible on the basis of a graduation mark-sheet which was not disclosed at the relevant time. The learned Single Judge, thus, committed an error in issuing such a direction.



10. Counsel for the petitioner submitted that, since the petitioner possessed an alternative eligibility qualification, but inadvertently failed to mention it in the application form, the omission was a bona fide mistake. He further submitted that, as the posts are still lying vacant, the impugned order passed by the learned Single Judge is just and proper and does not warrant interference in appellate jurisdiction.

11. In support of his submissions, counsel for the petitioner has placed reliance of the following judgments:-

(I) S.B. Civil Writ Petition No.13880/2017 :: Som Singh Vs. State of Rajasthan & Ors. and other connected matters (decided on 22.11.2017)

(II) S.B. Civil Writ Petition No.10749/2018 :: Neeraj Kumar Patidar Vs. State of Rajasthan & Ors. (decided on 29.08.2018)

12. Heard learned counsel for the parties.

13. This Court finds that in the earlier writ petition filed by the present petitioner, there was no mention whatsoever of his possessing any alternate eligibility qualification. His initial case in that petition was that his candidature had been wrongly rejected despite being granted admission to the REET examination, even though he had secured less than 45% marks in the Senior Secondary Examination. He contended that, having obtained more than the cut-off marks in the REET Examination, he should be declared eligible. There was not even a single reference to the existence of any alternate eligibility qualification and after a lapse of two and a half years, a candidate cannot be permitted to come out and claim that what he has not submitted in his application



form as an eligibility qualification inadvertently, then the same may be considered. This Court finds that such permission cannot be granted to an individual candidate. Moreover, in the facts of the present case, the respondent did not make any such claim at the first instance, despite the alleged qualification being available to him in the year 2018 itself as alleged by him. Granting such relief by the learned Single Judge, by treating it an inadvertent error on the part of the respondent, would set wrong precedent in matters of recruitment.

14. This Court also finds that the respondent did not place the advertisement on record in the present writ petition, although he had submitted the same in the earlier writ petition. As per the advertisement taken from earlier writ petition, the eligibility qualifications were prescribed under Clause 9. For the category under which the respondent had applied, the relevant qualifications were provided under Clause 9.2, which is reproduced as under :-

"9.2 कक्षा 1 से 5 (स्तर-प्रथम) के लिए (विशेष शिक्षा):-

A. न्यूनतम 50 प्रतिशत अंकों के साथ उच्चतर माध्यमिक (या इसके समकक्ष) एवं प्रारंभिक शिक्षा में द्विवर्षीय डिप्लोमा (विशेष शिक्षा) (चाहे उसे कोई भी नाम दिया गया हो) ।

Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education (Spacial Education) (by whatever name known).

अथवा

न्यूनतम 45 प्रतिशत अंकों के साथ उच्चतर माध्यमिक (अथवा इसके समकक्ष) एवं प्रारंभिक शिक्षा शास्त्र में द्विवर्षीय डिप्लोमा (विशेष शिक्षा) (चाहे जिस किसी नाम से जाना जाता हो) जो राष्ट्रीय अध्यापक शिक्षा परिषद् (मान्यता, मानदण्ड और क्रियाविधि) विनियम, 2002 के अनुसार प्राप्त किया गया हो।

Senior Secondary (or its equivalent) with at least 45% marks and 2-year Diploma in Elementary Education (Spacial Education) (by whatever name known) in



accordance with the NCTE (Recognition Norms and Procedure), Regulation, 2002.

अथवा

न्यूनतम 50 प्रतिशत अंकों के साथ उच्चतर माध्यमिक (अथवा इसके समकक्ष) एवं 4 वर्षीय प्रारंभिक शिक्षा शास्त्र स्नातक (विशेष शिक्षा) (बी.एल.एड.)

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

अथवा

स्नातक एवं प्रारम्भिक शिक्षा में द्विवर्षीय डिप्लोमा (विशेष शिक्षा) (चाहे जिस किसी नाम से जाना जाता हो)

Graduation and two year Diploma in Elementry Education (Spacial Education) (by whatever name known).

अथवा

न्यूनतम 50 प्रतिशत अंकों के साथ उच्चतर माध्यमिक (अथवा इसके समकक्ष) तथा शिक्षा शास्त्र (विशेष शिक्षा) में द्विवर्षीय डिप्लोमा

Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Education (Spacial Education) (by whatever name known).

तथा

B. राजस्थान अध्यापक पात्रता परीक्षा (आरटेट/रीट) लेवल-प्रथम में उत्तीर्ण होना अनिवार्य है।

स्पष्टीकरण:- प्राथमिक एवं उच्च प्राथमिक विद्यालय अध्यापक सीधी भर्ती-2018 लेवल प्रथम हेतु वरीयता सूची (Merit List) में शामिल होने के लिए अभ्यर्थी को राजस्थान अध्यापक पात्रता परीक्षा (RTET/REET) के लेवल प्रथम में न्यूनतम 60 प्रतिशत उत्तीर्णांक (Minimum Passing Marks) अर्जित करना अनिवार्य होगा परंतु राज्य सरकार के अधिसूचना क्रंमाक F.7(1)EE/Plan/2011 दिनांक 29.08.2012 के अनुसार अधिसूचित क्षेत्रों (Scheduled Area's) के अनुसूचित जनजातियों के अभ्यर्थियों के लिये न्यूनतम 36 प्रतिशत उत्तीर्णांक (Minimum Passing Marks) अनिवार्य होगा, परंतु अधिसूचना जारी होने से पूर्व आयोजित हुई आरटेट 2011 के संबंध में उन्हें यह छूट देय नहीं होगी।"

15. In Note (II) of Clause 12 of the advertisement, the following was provided :-

"अभ्यर्थी शुल्क जमा कराने से पूर्व यह सुनिश्चित कर लें कि वे इस विज्ञप्ति के अनुच्छेद-9 के अनुसार निर्धारित मापदण्डों के आधार पर आवेदन करने का पात्र है। आवेदन शुल्क जमा करवाने के बाद वापस नहीं लौटाया जायेगा।"

16. A bare reading of the aforesaid clauses makes it clear that a candidate was required to satisfy himself regarding his eligibility



and ensure that he fulfilled the eligibility criteria prescribed under Clause 9 before submitting the fees. Despite this clear instruction, the respondent neither submitted any graduation mark-sheet nor provided the marks obtained in graduation, nor any such mark-sheet was attached to his application. As per the application form, he claimed eligibility solely on the basis of his Senior Secondary examination mark-sheet and the marks obtained therein, along with a two-year diploma in Elementary Education. The appellants, relying on the information provided by him, scrutinized his application accordingly and rightly found that, since he had obtained less than 45% marks in the Senior Secondary examination, he did not meet the eligibility criteria and not eligible for the post. Now, after a long period, request of the petitioner that the posts are still lying vacant and that he inadvertently did not submit the graduation mark-sheet for consideration cannot be countenanced or permitted.

17. It is a settled principle of law that a recruitment agency is bound to consider the candidature of a candidate strictly based on the information submitted by him at the time of filling the application form or, at most, during any correction window if available, or if the correction is of a very trivial nature, until the last date for submission of the form or if factually he is prompt to seek correction. However, under no circumstances can a candidate be allowed to seek consideration of his candidature based on documents submitted after a lapse of long period from the closure of recruitment process, merely on the ground that seats are still lying vacant.



18. So far as the judgment relied upon by counsel for the petitioner in *Som Singh (supra)* is concerned, this Court finds that the learned Single Judge in the present case did not consider whether the petitioner was entitled to avail the 5% relaxation or not. Moreover, the said judgment cited by the petitioner pertains to relaxation of 5% available to ST candidates of the TSP area and not to any OBC candidate. The petitioner, being an OBC candidate, had admittedly claimed his candidature under the General category in the earlier writ petition; therefore, this judgment does not help the respondent.

19. So far as the judgment relied upon by counsel for the petitioner in *Neeraj Kumar Patidar (supra)* is concerned, it was a case where the petitioner's candidature was rejected despite having disclosed his qualification of graduation in the application form, merely on the ground that Clause 9.5 of the advertisement provided otherwise and in that fact situation the Court held that, since graduation was an alternate eligibility qualification as per the rules, the petitioner could not have been denied the right for being considered on the post as the alternate eligibility was disclosed in the form and was eligible.

20. The facts of the said case are clearly distinguishable, as in the present case, the respondent neither disclosed the fact of holding a graduation mark-sheet at the time of filling the application form nor claimed any right based on the graduation mark-sheet even after a lapse of two and a half years from the recruitment process. Furthermore, he did not disclose the existence of the graduation mark-sheet, which he later submitted in the present writ petition, allegedly issued by Sunrise University,



Tehsil Ramgarh, District Alwar. Therefore, no reliance could have been placed on a mark-sheet that was neither disclosed at the time of submitting the application form nor at the time of filing Writ Petition No. 8447/2018, which remained pending for almost two and a half years before being withdrawn. Accordingly, this Court finds that the judgment passed by the learned Single Judge deserves to be set aside .

21. In view of the foregoing discussion, the present appeal is **allowed**. The impugned order dated 23.02.2021 passed by the learned Single Judge is set aside, and the writ petition filed by the respondent-herein is dismissed.

22. Stay petition and pending applications, if any, stand disposed of.

(BIPIN GUPTA),J

(DR.PUSHPENDRA SINGH BHATI),J

-praveen/-