



HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 5773/2023

1. Kuldeep Singh S/o Shri Devi Singh, Aged About 27 Years, R/o Vpo-Jhariya, Churu, Rajasthan
2. Surendra Kumar S/o Shri Shish Pal Singh, Aged About 34 Years, R/o Gram Pipli, Sikar, Rajasthan

----Petitioners

Versus

1. The State Of Rajasthan, Through Principal Education Secretary, Government Secretariat, Jaipur, Rajasthan.
2. The Director, Secondary Education, Rajasthan, Bikaner.
3. The Secretary, Rajasthan Public Service Commission, Ajmer.
4. The Controller Of Examination, Vardhman Mahaveer Open University, Kota.

----Respondents

**And other similar matters
as per Schedule appended**

For Petitioner(s) : Ms. Supriya Saxena
Mr. Vigyan Shah
Mr. Ram Pratap Saini,
Mr. Aamir Khan
Mr. Rajpal Dhankhar
Mr. Sukhraj Singh Rathore
Ms. Komal Kumari Giri,
Mr. Bajrang Sepat
Mr. Aditya Sharma,
Mr. Chandra Shekhar
Mr. Sunil Kumar Sigodiya
Mr. Prateek Mathur

For Respondent(s) : Mr. Jaswant Persoya
Mr. S. Zakawat Ali, AGC
Mr. Vinod Kumar Gupta
Mr. M. F. Baig
Mr. Punit Singhvi
Mr. Ajay Singh Rathore
Ms. Anita Aggarwal
Mr. Himanshu
Mr. Sudhir Yadav
Dr. Y. C. Sharma

HON'BLE MR. JUSTICE SUDESH BANSAL

Judgment

23/08/2023

1. The clinching issue arises in the instant batch of civil writ petitions revolves around the fact that petitioner(s) could not



acquire the requisite educational qualification for the post of Lecturer-School Education in different subjects upto the cut off date i.e. the date of holding the written competitive examination as per the essential condition envisaged in the advertisement itself, yet petitioner(s) has come up with a case that he/she had appeared in the examination of final year of the requisite educational qualification held by the university concerned before the date of competitive examination, however due to the delay/negligence in declaring the result of the requisite qualification on the part of the concerned university, subsequent to the date of conducting the competitive examination, wherein the petitioner(s) has passed the final year examination, and since the delay in declaring the result of final year of the requisite education qualification is not attributable to the petitioner(s) but it is on the part of university concerned, therefore, the candidature of petitioner(s) be considered on merit for appointment on the post of Lecturer-School Education in respective subjects treating him as having acquire the requisite educational qualification. Few of writ petitioners have filed writ petitions before rejection of the candidature by the RPSC and few others have filed writ petitions after rejection of candidature by the RPSC only on the ground of not acquiring the requisite educational qualification for the post in question before or upto the date of conducting the written competitive examination and hence, all writ petitioners are jointly aggrieved by non-consideration of their candidature on merits for appointment on the post in question. The relevant condition as envisaged in the





advertisement issued by the RPSC and which is in conformity to the proviso appended to Rule 17 of the Recruitment Rules of 2021, reads as under:-

शैक्षणिक अर्हता संबंधी प्रावधान :-

"पद की अपेक्षित शैक्षणिक अर्हता के अंतिम वर्ष में सम्मिलित हुआ हो या सम्मिलित होने वाला व्यक्ति भी आवेदन करने के लिए पात्र होगा, किन्तु उसे आयोग द्वारा आयोजित प्रतियोगी परीक्षा से पूर्व शैक्षणिक अर्हता अर्जित करने का सबूत देना होगा।"

2. Since facts in all writ petitions are substantially similar and legal point involved therein is identical in nature, therefore, with consent of learned counsel for both parties, all writ petitions were tagged and have been heard together. Accordingly, all writ petitions would stand decide by this common judgment.

3. In order to deal with the issue in question, facts are taken from SBCWP NO.5773/2023 (Kuldeep Singh & Anr. Vs. State of Rajasthan & ors.) as also from SBCWP NO.17689/2022 (Amit Jangu Vs. State of Rajasthan).

3.1 The Rajasthan Public Service Commission, Ajmer (for short "the RPSC") through advertisement dated 28.04.2022 invited applications for appointment on the post of Lecturer-School Education in different subjects by way of Direct Recruitment under the Rajasthan Education (State and Sub-Ordinate) Service Rules, 2021 (for short "Rules of 2021"). As per the condition envisaged in the advertisement, it is clear that the aspirant/candidate in the final year of the requisite educational qualification for the post in relevant subjects will also be eligible to apply but he/she will have to produce the proof of having acquired the requisite educational qualification before the date of conducting competitive examination by the RPSC.





3.2 Both petitioners of CWP NO.5773/2023 were undergoing their post graduation course and were studying in final year of P.G. Course, however pursuant to the advertisement dated 28.04.2022 being eligible applied for the post of School Lecturer in English and Political Science. The written competitive examination of petitioners were conducted by RPSC on 11.10.2022, 14.10.2022 and 17.10.2022. Prior to that, both petitioners had appeared in the examination of final year of P.G. Course on 26.07.2022 and 28.07.2022, however result of the same came to be declared on 10.11.2022 and they have passed the P.G. Course. Petitioners were also declared to qualify the written competitive examination by RPSC, but apprehending that their candidature would not be considered on merits, since the requisite qualification of P.G. was not acquired before the date of conducting the competitive examination, apparently due to declaration of result of final year of P.G. subsequently, hence they have filed writ petition for consideration of their candidature on merits for appointment on the post of School Lecturer (School Education) for subject English and Political Science.

3.3 In SBCWP No.17689/2022, both petitioners have make out a case that they applied for the post of School Lecturer in subject Geography pursuant to the advertisement dated 28.04.2022 and at the time of filing Online application forms, they were studying in the final year of M.A. (Geography) at Vardhman Mahaveer Open University (VMOU). As per the schedule of VMOU, the final year examination of M.A. (Geography) of petitioner No.1 was allegedly due in December, 2021 and of petitioner No.2 in January 2021,





however due to Covid-19, the examination of final year were not conducted by the VMOU on time and same were conducted on 01.08.2022 and 03.08.2022. On the same dates, final year examination of M.Sc. (Geography), M.A. Geography (Final) (Lateral Entry) was also conducted by VMOU and the result of such examination was declared on 15.10.2022, yet the university committed delay in declaring the result of M.A. Geography (Final) of petitioners as the same was declared/uploaded on 22.10.2022. Prior to the declaration of result of petitioners for final year of M.A. Geography on 22.10.2022, the RPSC conducted the written competitive examination for School Lecturer (Geography) on 15.10.2022 and 16.10.2022 by way of two papers (Paper-I & Paper-II). Petitioners state that it is absolutely a fault on the part of VMOU in declaring/uploading the result of final year of M.A. (Geography) of petitioners on 22.10.2022, though the result of other P.G. Degree Course i.e. M.Sc. Geography (Final) and M.A. Geography (Final) (Lateral Entry) had been declared on 15.10.2022. The result of petitioners also be treated to be declared on 15.10.2022 instead of 22.10.2022, and hence, petitioners be held eligible to acquire the requisite educational qualification of P.G. Degree Course before or upto the date of conducting the competitive written examination for the post of School Lecturer (Geography) on 15.10.2022 by the RPSC, as such their candidature be considered for appointment on the post in question. After filing writ petition, both petitioners moved an application disclosing that the RPSC has declared the provisional result of the competitive examination on 16.05.2023 wherein both





petitioners have been shortlisted to check the eligibility and document verification, petitioners may not be deprived from consideration of their candidature on merits for the post of School Lecturer (Geography), merely on account of delayed declaration of the result of M.A. (Geography) final year, after conducting the competitive examination by the RPSC. Be that as it may, the clinching issue emerges that it is not in dispute that both petitioners have not acquired the requisite educational qualification of M.A. (Geography) before the cut off date i.e. conducting the written competitive examination by the RPSC for the post of School Lecturer (Geography), which is mandatory, as per condition envisaged in the advertisement itself.

4. Learned counsel for petitioners would argue that it is true that petitioners were pursuing their studies in the final year of P.G. Course or B.Ed. Course or the equivalent requisite qualification thereto for the post in question yet were eligible to apply for the post. The final year examination of their respective requisite educational qualification were held by the concerned university, wherein petitioners have appeared but it is a fault on the part of university in declaring the result belated, due to which petitioners could not be put to suffer. It has been contended that before conducting the written examination by the RPSC for the post of School Lecturer in respective subjects, petitioners had appeared in the final year examination of their respective requisite educational qualification course, and in the result, declared by the university, subsequent to the date of conducting the written competitive examination, petitioners have





been declared passed, therefore, petitioners be treated to have acquired the requisite educational qualification on the date of conducting the competitive written examination by the RPSC. It has been argued that some of universities like; Vardhman Mahaveer Open University, Kota, Rajasthan Rishi Bhartrihari Matsay University, Alwar, Maharshi Dayanand Saraswati University, Ajmer have accepted the delay and fault on their part in declaring the result of final year examination of the respective degree courses of P.G./B.Ed., as the case may be, and have written letters to the Secretary, RPSC to treat their students as eligible for the competitive examination and requested that students may not be put to suffer due to the delayed declaration of result.

5. Learned counsel for petitioners have placed reliance on the judgment of Hon'ble Supreme Court delivered in case of **Laxmi Saroj Vs. State of U.P. & Ors., [AIR 2023 SC 120]**, wherein petitioner applied for appointment on the post of Health Worker (Female), for which essential qualifications (Educational and Other) which includes that a candidate must have successfully completed one year six months/two years Auxiliary Nurses and Midwife (ANM Training Course), including six months training and the candidate was required duly registered with the Utter Pradesh Nurses and Midwife Council, Lucknow. Petitioners completed the requisite essential educational qualification, however, because of late issuance of registration by U.P. Council, which was required to be issued till the last date of submission of application form. Petitioners could not produce the U.P. Council Registration either





on the last date of application and/or at the time of verification of documents, and therefore, they were held ineligible. In that context of factual matrix, the Hon'ble Supreme Court observed that there was no fault on the part of writ petitioners in not producing the U.P. Council Registration within time, therefore, petitioners could not have been made to suffer. The Hon'ble Supreme Court placed reliance on its decision in the previous case **Narendra Singh Vs. State of Haryana and Ors, [(2022) 3 SCC 286]**.

6. Per contra, learned counsel for RPSC has urged that since it is not in dispute that petitioners failed to acquire the essential and requisite qualification of PG/B.Ed./Degree Course, or equivalent thereto, whichever is required to be possessed by the candidate for the respective subject of Lecturer-School Education, as prescribed in the advertisement upto the cut off date, it means the date of conducting the competitive written examination for the post in question by the RPSC, therefore, writ petitioners cannot be treated as eligible for consideration of their candidature for the post in question. It may be true that writ petitioners have acquired the requisite qualification after the cut off date, but same is insignificant in terms of the condition enumerated in the advertisement itself, which is in conformity to the proviso appended to Rule 17 of the Rules of 2021. It has been argued that such condition is not under challenge, therefore, the rigor of the condition would operate in its term, as exists, and petitioners have accepted the conditions, hence they would be abide by the same. It has been argued that the cut off date fixed by the RPSC





for acquiring the essential and requisite qualification deserves to be given its due credence and may not be disturbed/extended/relaxed by the Court in exercise of powers of judicial review under Article 226 of the Constitution of India, more particularly, when such cut off date is in conformity to the statutory rules, and there is no rule to relax such condition. The proposition of law on the issue in question is well established in catena of judgments, reference of few have been made and therefore, it has been prayed that the prayer of writ petitioners is devoid of substance and is not liable to be accepted.

7. Heard. Considered.

8. It is not in dispute that petitioners do not possess the requisite educational qualification as required for appointment on the post of Lecturer-School Education in the subject concerned enumerated in the advertisement dated 28.04.2022, on the date of submission of the Online application forms. According to petitioners, they were studying in the final year of the requisite educational qualification in different universities, yet were eligible to apply for the post in question as per terms and conditions envisaged in the advertisement to the effect that the person, who has appeared or is appearing in the final year of the requisite educational qualification of the post, will also be eligible to apply, but the person concerned will have to produce proof of having acquired the educational qualification before the competitive examination conducted by the RPSC. Since the petitioners have applied in different subjects for the post of Lecturer-School Education pursuant to the advertisement dated 28.04.2022, and





the requisite educational qualification are different subject wise and vacancies for the post of Lecturer-School Education were notified for as many as 26 subjects from Serial No.1 to 26, therefore, it would be appropriate to reproduce the requisite educational qualification as indicated in the advertisement itself, alongwith the condition concerned to petitioners thus:-

"अनिवार्य शैक्षणिक योग्यताए :

(1) उपर्युक्त पद क्रम संख्या 6 से 20 तक के लिये :- Post Graduate or equivalent examination recognized by UGC in the relevant subject with Degree or Diploma in Education recognized by the National Council of Teacher Education/Government.

(पद क्रम संख्या 1 के लिये):- Post Graduate or equivalent examination recognized by UGC with Zoology/Botany / Micro Biology/Bio Technology provided they have studied Botany and Zoology at Graduation level with Degree or Diploma in Education recognized by the National Council of Teacher Education/Government.

(पद क्रम संख्या 2 के लिये (i) Post Graduate or equivalent examination recognized by UGC in Commerce with B.Com. OR Post Graduate or equivalent examination recognized by UGC in Commerce, having at least two teaching subject for Higher Secondary classes as prescribed by the Board of Secondary Education, Rajasthan, Ajmer for Commerce group.
(ii) Degree or Diploma in education recognized by the National Council of Teacher Education/Government.

पद क्रम संख्या 3 के लिये:- Post Graduate or equivalent examination recognized by UGC in Music or the qualification declared equivalent thereto by the Government.

पद क्रम संख्या 4 के लिये:- Post Graduate or equivalent examination recognized by UGC in Drawing or the qualification declared equivalent thereto by the Government. OR Diploma of five years' duration in Arts of any school/college of Arts recognized by the Government.

(पद क्रम संख्या 5 के लिये):- Post Graduate or equivalent examination recognized by UGC in Agriculture in either Agronomy Horticulture/Animal Husbandry with Degree or Diploma in Education recognized by the National Council of Teacher Education/Government.

पद संख्या 21 से 25 के लिये - Graduate or equivalent examination recognized by UGC with Degree or Diploma in Physical Education and Full term National Institute of Sports (NIS) Certificate from any branch of National Institute of Sports.

(पद क्रम संख्या 26 के लिये):- Graduate or equivalent examination recognized by UGC and Post Graduate in Physical Education/ M.P.Ed. (2 years duration) recognized by the National Council of Teacher Education/Government.

(2) Working Knowledge of Hindi written in Devnagari Script and knowledge of Rajasthani Culture.

शैक्षणिक अर्हता संबंधी प्रावधान :-

"पद की अपेक्षित शैक्षणिक अर्हता के अंतिम वर्ष में सम्मिलित हुआ हो या सम्मिलित होने वाला व्यक्ति भी आवेदन करने के लिए पात्र होगा, किन्तु उसे आयोग द्वारा आयोजित प्रतियोगी परीक्षा से पूर्व शैक्षणिक अर्हता अर्जित करने का सबूत देना होगा".

9. It is not in dispute that the Direct Recruitment for the post of Lecturer-School Education is conducted pursuant to the advertisement dated 28.04.2022 under the statutory rules of 2021. The condition to acquire the requisite eligibility





qualification for the post in question before the written examination for that post by the RPSC as envisaged in the advertisement, and extracted hereinabove, stands in conformity to the proviso appended to Rule 17 of Rules of 2021. For ready reference, Rule 17 with its proviso is reproduced hereunder:-



"17. Academic and Technical qualifications and experience:- A candidate for direct recruitment to the post specified in Scheduled-I or Schedule-II, as the case may be, shall possess;

- (i) the qualifications and experience as prescribed in column 5 of Scheduled-I or Scheduled-II, as the case may be; and
- (ii) working knowledge of Hindi written in Devnagari Script and knowledge of Rajasthani Culture;

"Provided that the person who has appeared or is appearing in the final year examination of the course which is the requisite educational qualification for the post as mentioned in the rules or schedule for direct recruitment, shall be eligible to apply for the post but he/she shall have to submit proof of having acquired the requisite educational qualification to the appropriate selection agency:-

(a) before appearing in the main examination, where selection is made through two stages of written examination and interview;

(b) before appearing in interview where selection is made through written examination and interview; or

(c) before appearing in the written examination or interview where selection is made through only written examination or only interview, as the case may be."

10. It is also not in dispute that the selection process for the Direct Recruitment of Lecturer-School Education pursuant to advertisement dated 28.04.2022 is through conducting written competitive examination by the RPSC. Such process of selection is also enumerated in the advertisement itself in following words:-



चयन प्रक्रिया	अभ्यर्थियों का चयन प्रतियोगी परीक्षा के माध्यम से किया जायेगा। आवश्यकता पड़ने पर आयोग द्वारा उत्तरपत्रक / उत्तरपुस्तिका के मूल्यांकन में स्केलिंग / मोडरेशन/ नॉर्मलाइजेशन (सामान्यीकरण) पद्धति को अपनाया जा सकेगा
परीक्षा का स्थान एवं माह	परीक्षा स्थान व तिथि के संबंध में यथासमय सूचित किया जायेगा।
परीक्षा योजना व पाठ्यक्रम	उक्त पदों से संबंधित सेवा नियम के नियम 22 के अनुसार प्रतियोगी परीक्षा के रूप में आयोजित की जायेगी। उक्त नियम में उल्लेखित परीक्षा योजना के अनुसार परीक्षा वस्तुनिष्ठ रूप में ली जायेगी जिसके सभी प्रश्न वस्तुनिष्ठ प्रकार के होंगे। विस्तृत पाठ्यक्रम आयोग की वेबसाइट पर पृथक से जारी किया जायेगा।

11. The merit list of selected candidates would be prepared as per the score of candidates in the written examination subject-wise and candidates are required to be shortlisted in the provisional merit list for eligibility checking by way of ensuing the procedure of document verification. Thus, taking into consideration, the criteria of selection process, the condition of acquiring the requisite educational qualification by the aspirant/candidate before conducting the competitive written examination by the RPSC is applicable for petitioners, which is envisaged in the advertisement itself and has coherence with the statutory rules 21 as well. Otherwise also, it may be observed that such condition is not under challenge or in question, rather all petitioners have applied/participated in the direct recruitment for the post in question within the scope of such condition.

12. As far as factual matrix is concerned, none of petitioners has acquired educational qualification, as required for the post of Lecturer-School Education in the concerned subject wherein he/she has applied before the date of conducting the competitive written examination by the RPSC. In the opinion of this Court,





candidates who were pursuing their studies of final year in the requisite eligible qualification and either had appeared in the examination or appearing, took a chance and opportunity to participate in the recruitment process, which is solely subject to condition of acquiring the requisite educational qualification by declaration of result of the final year examination before conducting the written competitive examination by the RPSC. The cut off date i.e. the date of conducting the written competitive examination, is required to be given its due credence. As firstly, petitioners were well aware about such cut off date at the time of applying for the post in question since the condition is enumerated in the advertisement itself, secondly, such cut off date is in conformity to the proviso of Rule 17 of the statutory Rules 2021 governing the present recruitment, and thirdly, learned counsel for petitioners could not point out any rule, which extends power to the State Government to relax such rigor of condition. Petitioners have sought to take resort on humanitarian ground that the requisite educational qualification before the date of conducting of competitive written examination could not be acquired only due to delay in declaration of result of the final year examination by concerned university, and for which petitioners are not at fault. Petitioners have sought to impress upon the factum of equity that in some of cases, the delay of declaration of result is only of few dates. Petitioners have also sought to raise a circumstance that the session was delayed by the concerned university due to Pandemic Covid-19 and examinations of final year were delayed. It has been pointed out that universities too





have accepted delay on their part on account of unavoidable circumstances. In the opinion of this Court, resort to such factual circumstances, for whatsoever reason may be in declaration of the result of the final year examination, in respect of the requisite educational qualification, does not come to rescue of petitioners as petitioners knowingly and willingly applied/ participated in the direct recruitment process for the post in question being fully aware to face such kind of situation. It is an admitted case of petitioners that they were required to acquire the requisite educational qualification for consideration of their candidature on merits for the post in question before holding the written competitive examination by the RPSC. The fortuitous circumstances, where result of any of the petitioner is declared with a delay of few days, after conducting the written competitive examination, does not confer any right of consideration of his/her candidature on merits. The legal proposition of law has been settled by the Apex Court in catena of judgments in respect of giving credence to the cut off date fixed by the recruitment agency, and therefore, the principle of stair decisis operates against the petitioner in this respect.

13. It is undisputed fact that in the advertisement dated 28.04.2022, pursuant to which petitioners have applied and participated in the direct recruitment for the post in question, there was a clear stipulation that aspiring candidate will have to possess the requisite educational qualification before the date of conducting the competitive examination by the RPSC. Admittedly, none of the petitioners could acquire the requisite eligibility





qualification before the date of competitive examination of that post for that subject for which he/she applied. The cut off date to acquire the requisite eligibility qualification, as indicated in the advertisement, would apply in its full rigor, more so when same is in conformity to the statutory rules, and there is no provision to relax/extends such cut off date.

14. In this respect, the proposition of law as expounded by the Apex Court in case of **Ashok Kumar Sonkar Vs Union of India [(2007) 4 SCC 54]**, the Hon'ble Supreme Court examined a similar controversy and held as below:-

"13.The said decision is, therefore, an authority for the proposition that in absence of any cut off date specified in the advertisement or in the rules, the last date for filing of an application shall be considered as such.

14. Indisputably, the appellant herein did not hold the requisite qualification as on the said cutoff date. He was, therefore, not eligible therefor.

15. In **Bhupinderpal Singh & Others v. State of Punjab & Others [(2000) 5 SCC 262]**, this Court moreover disapproved the prevailing practice in the State of Punjab to determine the eligibility with reference to the date of interview, inter alia, stating:-

"13. Placing reliance on the decisions of this Court in Ashok Kumar Sharma v. Chander Shekhar, A.P. Public Service Commission v. B. Sarat Chandra, District Collector and Chairman, Vizianagaram Social Welfare Residential School Society v. M. Tripura Sundari Devi, Rekha Chaturvedi v. University of Rajasthan, M.V. Nair (Dr.) v. Union of India and U.P. Public Service Commission U.P., RAJA.P. Public Se Allahabad v. Alpana the High Court has held (i) that the cut-off date by reference to which the eligibility requirement must be satisfied by the candidate seeking a public employment is the date appointed by the relevant service rules and if there be no cut-off date appointed by the rules then such date as may be appointed for the purpose in the





advertisement calling for applications; (ii) that if there be no such date appointed then the eligibility criteria shall be applied by reference to the last date appointed by which the applications have to be received by the competent authority. The view taken by the High Court is supported by several decisions of this Court and is therefore well settled and hence cannot be found fault with. However, there are certain special features of this case which need to be taken care of and justice be done by invoking the jurisdiction under Article 142 of the Constitution vested in this Court so as to advance the cause of justice."

[See *Jasbir Rani and Others v. State of Punjab & Another* [JT 2001 (9) SC 351 (2002) 1 SCC 124].

16. Yet again in **Shankar K. Mandal and Others v. State of Bihar and Others [(2003) 9 SCC 519]**, this Court held that the following principles could be culled out from the aforementioned decisions:-

"(1) The cut-off date by reference to which the eligibility requirement must be satisfied by the candidate seeking a public employment is the date appointed by the relevant service rules.
(2) If there is no cut-off date appointed by the rules then such date shall be as appointed for the purpose of in the advertisement calling for applications.
(3) If there is no such date appointed then the eligibility criteria shall be applied by reference to the last date appointed by which the applications were to be received by the competent authority."

17. In **M.A. Murthy v. State of Karnataka & Others [(2003) 7 SCC 517]**, a contention was made that Ashok Kumar-II (supra) was to operative prospectively or not. The said contention was rejected, stating:

"It is for this Court to indicate as to whether the decision in question will operate prospectively. In other words, there shall be no prospective overruling, unless it is so indicated in the particular decision. It is not open to be held that the decision in a particular case will be prospective in its application by application of the doctrine of prospective overruling. The doctrine of binding precedent helps in promoting certainty and consistency in judicial decisions and enables an organic development of the law





besides providing assurance to the individual as to the consequences of transactions forming part of the daily affairs. That being the position, the High Court was in error by holding that the judgment which operated on the date of selection was operative and not the review judgment in Ashok Kumar Sharma case No. II. All the more so when the subsequent judgment is by way of review of the first judgment in which case there are no judgments at all and the subsequent judgment rendered on review petitions is the one and only judgment rendered, effectively and for all purposes, the earlier decision having been erased by countenancing the review applications. The impugned judgments of the High Court are, therefore, set aside.

18. Possession of requisite educational qualification is mandatory. The same should not be uncertain. If an uncertainty is allowed to prevail, the employer would be flooded with applications of ineligible candidates. A cut-off date for the purpose of determining the eligibility of the candidates concerned must, therefore, be fixed. In absence of any rule or any specific date having been fixed in the advertisement, the law, therefore, as held by this Court would be the last date for filing the application."

15. The aforesaid proposition of law has recently been followed by the Division Bench of Rajasthan High Court in case of **Ramesh Chand Meena Vs. State of Rajasthan:D.B. Spl. Appl. Writ No.227/2021** and connected appeal, vide judgment dated 18.01.2022 delivered by the Principal Seat at Jodhpur. The candidature of writ petitioners for direct recruitment on the post of School Lecturer pursuant to the notification dated 29.03.2018 was rejected by the RPSC on account of not acquiring the requisite qualification before the date of holding the written competitive examination. Writ petitions





were dismissed by learned Single Judge and the judgment was affirmed by the Division Bench placing reliance upon the proposition of law as expounded by the Apex Court in case of **Ashok Kumar Sonkar (supra)**.

16. It would not be out of place to make a reference of the judgment of Apex Court in case of **State of Uttar Pradesh Vs. Vijay Kumar Mishra reported in (2017) 11 SCC 521** which also through light on the clinching issue involved herein. The relevant portion of the judgment is reproduced hereunder:-

"6. The position is fairly well settled that when a set of eligibility qualifications are prescribed under the rules and an applicant who does not possess the prescribed qualification for the post at the time of submission of application or by the cut off date, if any, described under the rules or stated in the advertisement, is not eligible to be considered for such post. It is relevant to note here that in the rules or in the advertisement no power was vested in any authority to make any relaxation relating to the prescribed qualifications for the post. Therefore, the case of a candidate who did not come within the zone of consideration for the post could not be compared with a candidate who possess the prescribed qualifications and was considered and appointed to the post. Therefore, the so-called confession made by the officer in the Court that persons having lower merit than the respondent have been appointed as SDI (Basic), having been based on misconception is wholly irrelevant. The learned single Judge clearly erred in relying on such a statement for issuing the direction for appointment of the respondent. The Division Bench was equally in error in confirming the judgment of the learned single Judge. Thus the judgment of the learned single Judge as confirmed by the Division Bench is unsustainable and has to be set aside."





17. In the light of the afore-referred proposition of law, petitioners are not entitled to claim a right of consideration of their candidature for appointment on the post of Lecturer-School Education in subject concern on merits, once it is undisputed fact that they could not acquire the requisite educational qualification upto the cut off date i.e. holding the written competitive examination for the post in question by the RPSC.

18. As far as the judgment of Hon'ble Supreme Court delivered in case of **Laxmi Saroj (supra)** placing reliance on its previous judgment in case of **Narendra Singh (supra)** whereupon learned counsel for petitioners have vehemently placed reliance is concerned, both judgments were delivered in entirely different context and facts, which are not similar to the case of present writ petitioners. In case of Narendra Singh (supra), petitioners applied for the post of Assistant Professor (College Cadre) in the State of Haryana, while he was working as JVT Teacher at Government Primary School, Haryana. As per terms of the advertisement, writ petitioner was required to submit No Objection Certificate (NOC) of its appointing authority, at the time of interview for the advertised post. Petitioner had applied for issuance of NOC in time but there was delay on the part of Government in issuing the NOC, despite interim order passed by the High Court and further when the petitioner was selected on merits for the advertised post of Assistant Professor, he was allowed to join, without production of NOC. Later on his appointment was cancelled, although prior to that NOC has been issued, therefore, in such backdrop of facts, the Hon'ble Supreme





Court directed respondents to grant appointment to writ petitioner and observed in para No.20 thus:-

"20. Once it is found that there was no lapse and/or delay on the part of the appellant and/or there was no fault of the appellant in not producing the NOC at the relevant time and when it was produced immediately on receipt of the same and that too before the appointments were made and when it is found that the last candidate, who is appointed i.e. Respondent 4 herein is having less marks than the appellant and thus the appellant is a more meritorious candidate than the last candidate appointed i.e. Respondent 4, to deny him the appointment is not justifiable at all. He cannot be punished for no fault of him. Both, the learned Single Judge as well as the Division Bench' of the High Court have committed grave error in not exercising the jurisdiction vested in it and in not directing the respondents to appoint the appellant though he is found to be more meritorious candidate than the last candidate appointed i.e. Respondent 4."

The aforesaid proposition of law was followed in case of **Laxmi Saroj (supra)**, where writ petitioner was essentially required registration with the U.P. Council upto the last date of submission of application form pursuant to the advertisement for the post of Health Worker (Female), apart from the requisite educational qualification. The writ petitioners were in possession of the requisite educational qualification and were registered with M.P. Council. They have applied for registration before the U.P. Council and in the process of registration, M.P. Council furnished NOC, however U.P. Council took time to issue the registration certificate and later on registration certificate was issued after the date of submission on application form. Therefore, in that process of issuing registration certificate by the U.P. Council, petitioner was not found at fault and following the proposition of law is expounded in case of **Narendra Singh (supra)**, the Hon'ble





Supreme Court allowed the writ petition and directed respondents to appoint the appellant on the post of Health Worker (Female) who was already in possession of the requisite educational qualification. Both judgments have been delivered in altogether different nature of facts, therefore, do not provide any help to writ petitioners, who have undisputedly failed to acquire the requisite educational qualification for the post in question before conducting of written competitive examination by the RPSC.

19. The upshot of above discussions and reasonings made hereinabove is that writ petitioners may not be treated as eligible for want of not acquiring the requisite educational qualification before or upto the cut off, date as fixed by the RPSC, in advertisement itself for consideration of their candidature on merits for the post of Lecturer-School Education in respective subject pursuant to advertisement dated 28.04.2022.

20. As a result, all writ petitions fail and are hereby dismissed. Since writ petitions itself have been dismissed on merits, interim orders passed in favour of any of writ petitioner/s would come to an end, automatically.

21. Stay applications and any other pending application, if any, stand disposed of.

(SUDESH BANSAL),J

TN/217 to 266 except 242





S.No	Item No.	Writ Petition No.	Party Name	
1.	218	SBCWP No.17689/2022	Amit Jangu	The State of Raj. & ors.
.	219	SBCWP No.595/2023	Sarwan Ram	The State of Raj. & ors.
.	220	SBCWP No.596/2023	Yashpal Singh Meena	The State of Raj. & ors.
4.	221	SBCWP No.597/2023	Surendra Kumar	The State of Raj. & ors.
5.	222	SBCWP No.1378/2023	Varsha Gupta	The State of Raj. & ors.
6.	223	SBCWP No.1379/2023	Rubiya Parveen	The State of Raj. & ors.
7.	224	SBCWP No.1714/2023	Karan Singh Kasotia	The State of Raj. & ors.
8.	225	SBCWP No.3175/2023	Hitpal Singh Ranawat	The State of Raj. & ors.
9.	226	SBCWP No.6752/2023	Sapna Yadav	The State of Raj. & ors.
10.	227	SBCWP No.6935/2023	Virendra kumar Sharma	The State of Raj. & ors.
11.	228	SBCWP No.7726/2023	Kuldeep Singh	The State of Raj. & ors.
12.	229	SBCWP No.7728/2023	Ramu Kumar Meena	The State of Raj. & ors.
13.	230	SBCWP No.8211/2023	Ganeshram & Ors.	The State of Raj. & ors.
14.	231	SBCWP No.8580/2023	Surbhi Thakuriya	The State of Raj. & ors.
15.	232	SBCWP No.8583/2023	Kiran Kalwar & Anr.	The State of Raj. & ors.
16.	233	SBCWP No.8632/2023	Vikash Kumar & Ors.	The State of Raj. & Anr
17.	234	SBCWP No.9585/2023	Monika	The State of Raj. & ors.
18.	235	SBCWP No.9586/2023	Manisha	The State of Raj. & ors.





19.	236	SBCWP No.9679/2023	Madhu Yadav	The State of Raj. & ors.
20.	237	SBCWP No.9728/2023	Hemlata Jaju	The State of Raj. & ors.
21.	238	SBCWP No.9729/2023	Arvind Vishnoi	The State of Raj. & ors.
2.	239	SBCWP No.9730/2023	Mohit Patidar	The State of Raj. & ors.
3.	240	SBCWP No.9731/2023	Antu Sharma	The State of Raj. & ors.
24	241	SBCWP No.9732/2023	Chena Ram	The State of Raj. & ors.
25	243	SBCWP No.10250/2023	Omprakash Singh	The State of Raj. & ors.
26	244	SBCWP No.10360/2023	Garima Kalwi	The State of Raj. & ors.
27	245	SBCWP No.10488/2023	Jaichand Bhakar	The State of Raj. & ors.
28	246	SBCWP No.10588/2023	Rishhikant Joshi	The State of Raj. & ors.
29	247	SBCWP No.10589/2023	Sunil Kumar & Ors.	The State of Raj. & ors.
30	248	SBCWP No.10591/2023	Mahipal Dan	The State of Raj. & ors.
31	249	SBCWP No.10844/2023	Jetha Ram	The State of Raj. & ors.
32	250	SBCWP No.10908/2023	Rewant Ram	The State of Raj. & ors.
33	251	SBCWP No.10950/2023	Ashok Kumar Meena	The State of Raj. & ors.
34	252	SBCWP No.10970/2023	Dwarka Das	The State of Raj. & ors.
35	253	SBCWP No.11211/2023	Jyoti Gocher	The State of Raj. & ors.
36	254	SBCWP No.11215/2023	Rajkumar Meena	The State of Raj. & ors.
37	255	SBCWP No.11362/2023	Bindu Lodha	The State of Raj. & ors.
38	256	SBCWP No.11460/2023	Mamata	The State of Raj. & ors.





39	257	SBCWP No.11622/2023	Narneder Kumar	The State of Raj. & ors.
40	258	SBCWP No.11682/2023	Hardeepender Singh	The State of Raj. & ors.
41	259	SBCWP No.11862/2023	Veekesh Singh Gurjar	The State of Raj. & ors.
2	260	SBCWP No.12006/2023	Mainka Meena	The State of Raj. & ors.
3	261	SBCWP No.12009/2023	Sharwan Ram Meghwal	The State of Raj. & ors.
44	262	SBCWP No.12223/2023	Yogesh Kumar	The State of Raj. & ors.
45	263	SBCWP No.12247/2023	Deepika Nagar	The State of Raj. & ors.
46	264	SBCWP No.12433/2023	Pooja Parihar	The State of Raj. & ors.
47	265	SBCWP No.12486/2023	Rakesh Seervi	The State of Raj. & ors.
48	266	SBCWP No.12629/2023	Ms. Kritika Agarwal	The State of Raj. & ors.

