



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 4551/2021

Aditi Dadhich D/o Shri Ashok Kumar Joshi, Aged About 22 Years,
Resident Of Dadhich Sadan, Azad Nagar, Madanganj,
Kishangarh, District Ajmer.

-----Petitioner

Versus

1. The State Of Rajasthan, Through Principal Secretary,
Department Of Sanskrit Education, Government Of
Rajasthan, Secretariat, Jaipur.
2. The Director, Department Of Sanskrit Education,
Government Of Rajasthan, 2Nd Floor, Block-6, Shiksha
Sankul, J.I.n. Marg, Jaipur (Raj.)
3. Rajasthan Public Service Commission, Through Its
Secretary, Government Of Rajasthan, Ajmer.

-----Respondents

For Petitioner(s) : Mr. Sandeep Saxena
For Respondent(s) : Mr. M.F. Baig

HON'BLE MR. JUSTICE INDERJEET SINGH

Order

12/04/2022

This writ petition has been filed by the petitioner with the
following prayers;

“It is, therefore, prayed that the
Hon’ble Court may call for the entire
record concerning the case and after
examining the same, by issuing writ,
order or direction or in the nature
thereof;

(i) And the action of the respondents
as well as the communication dated
25.01.2021, may kindly be quashed
and set aside and the respondents
are directed to consider the
representation of the petitioner and
relax the condition of the cutoff date
of eligibility due to covid -19



pandemic and if petitioner found eligible for appointment on the post of Lecturer (School Education) pursuant to the advertisement dated 29.03.2018 and the corrigendum dated 06.01.2020, she may give appointment with all consequential benefits from the date less meritorious candidate given appointment.

(ii) Any prejudicial order to the interest of the petitioner, if passed during the pendency of the writ petition, the same may kindly be taken on record and be pleased to quash and set aside.

(iii) Any other appropriate writ, order or direction, which this Hon'ble Court may consider just and proper, in the facts and circumstances of the case, may kindly be passed in favour of the petitioner."

In pursuance to the advertisement dated 29.03.2018 and corrigendum dated 06.01.2020 issued by the RPSC, the petitioner applied for the post of School Lecturer (Sanskrit Education) and according to corrigendum dated 06.01.2020, the last date for submitting the application form for the said post was 27.01.2020. The application of the petitioner was not considered by the respondent(s) for appointment on the said post on the ground that the petitioner was not having the requisite educational qualification on the last date of submitting the application form i.e. 27.01.2020. In the first round of litigation, the petitioner filed S.B. Civil Writ Petition No. 347/2021 (**Aditi Dadhich Vs. The State of Rajasthan & Ors.**) before this Court which was decided by the Co-ordinate Bench of this Court vide order dated 19.01.2021 which reads as under;

"1. Admittedly, the petitioner was in the Final Year of the qualifying examination namely, Acharya (M.A.) at the time of submission of application for the post of School Lecturer under the advertisement dated 29.03.2018 read with corrigendum dated 6.1.2020. The test for selection for



the post of School Lecturer was conducted on 4th August, 2020 but till the date of conducting of the selection test, the result of Acharya Examination was not declared and the same has been declared in December, 2020 and the petitioner has passed the same with First Division.

2. Learned counsel for the petitioner submits that the delay in declaration of result and conducting of final year examination of Acharya was on account of COVID-19 Pandemic and in such exceptional circumstances, the condition laid down in the advertisement for candidates who are appearing in final year examination to give a proof of having cleared the examination before the selection test for the post of School Lecturer ought to be relaxed.

3. I have considered the submissions.

4. The condition laid down in the advertisement is in accordance with the omnibus rule introduced in State Subordinate Service Rules by the State of Rajasthan in the year, 1999 and this Court finds that there is no provision for relaxation under the rules of such a condition. In view thereof, while it may be true that results of the qualifying examinations may have been delayed on account of Pandemic, no relief can be granted to the petitioner as third party rights would be created if the petitioner alone is granted such relaxation. The domain for granting relaxation is exclusively with the executive and not with the judiciary. In view thereof, no relief can be granted to the petitioner being ineligible as per the advertisement.

5. Accordingly, the writ petition is dismissed. The dismissal of the writ petition would, however, not preclude the petitioner from taking up the matter with the Government for the said purpose.

6. All pending applications also stand disposed of."

Thereafter, on representation being submitted by the petitioner, the case of the petitioner was again considered by the RPSC and the RPSC rejected the representation of the petitioner vide letter dated 25.01.2021 on the ground that the petitioner was not having the requisite educational qualification before the written examination was conducted by the RPSC. Counsel further





submits that due to pandemic of Covid-19 the examination of the petitioner was not conducted by the university and for which the petitioner was not at fault. Counsel further submits that on the humanitarian grounds the case of the petitioner ought to have been considered by the respondent(s).

Counsel appearing on behalf of the respondent(s) opposed the writ petition and submitted that they have rightly rejected the candidature of the petitioner as the petitioner was not having the requisite educational qualification before the written examination was conducted by the RPSC and it is not only the petitioner but thousands of other candidates also who were not having the requisite educational qualification on the last date of submitting the application form, and permitting the petitioner in the selection process would amount to injustice to such other candidates.

In support of his contention, counsel for the respondent(s) relied upon the judgment passed by the Hon'ble Supreme Court in the matter of **State of Uttar Pradesh Vs. Vijay Kumar Mishra** reported in **(2017) 11 SCC 521** where in Para-6 it has been held as under;

"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.

Heard counsel for the parties and perused the record.

This writ petition filed by the petitioner deserves to be dismissed for the reasons; firstly, the petitioner was not having the requisite educational qualification on the last date of submitting the application form as mentioned in the advertisement, therefore, the candidature of the petitioner was rightly rejected by the RPSC; secondly, in my considered view, in view of the judgment passed by the Hon'ble Supreme Court in the matter of **State of Uttar Pradesh (supra)**, the candidates must have the requisite educational qualification as mentioned in the advertisement or the rules on the last date of submitting the application form, therefore, in the facts and circumstances of the present case, I am not inclined to exercise the jurisdiction of this Court under Article-226 of the Constitution of India.

In that view of the matter, the present writ petition stands dismissed.

(INDERJEET SINGH),J

CHETNA BEHRANI /57