



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



S.B. Civil Writ Petition No. 122/2023

Bhumika Rathore D/o Mohan Singh Rathore, Aged About 35 Years, R/o J-19, Adarsh Nagar, New Multan Jain Mandir, Neyar Balghar School, Jaipur, Rajasthan - 302004.

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Additional Chief Secretary, Department Of Higher Education, Govt. Of Rajasthan, Secretariat, Jaipur.
2. The Commissioner, College Education, Siksha Sankul, Jln Road, Jaipur (Raj.).
3. Rajasthan Public Service Commission, Through Its Secretary, Ghooghra Ghati, Ajmer (Raj.).

----Respondents

Connected With

S.B. Civil Writ Petition No. 970/2021

1. Arvind Choudhary S/o Shri Virendra Choudhary, Aged About 34 Years, R/o Vpo Duriyan, Via Gudha Gorjika Tehsil Udaipurwati, District Jhunjhunu (Raj.).
2. Shailendra Kumar S/o Jagjeevan Ram, R/o B52, Mahesh Nagar, Jaipur (Raj.).
3. Rakesh Chouhan S/o Om Prakash, R/o 4-A, Ganpati Nagar, Ganpatpura, Mansarover, Jaipur (Raj.).
4. Swati Jain D/o Kamal Kumar Jain, R/o Opp. Vyas Haveli, Ajad Chowk, Malpura, Distt. Tonk (Raj.).
5. Prashant Meel S/o Dhanne Singh Meel, R/o Inside Charan Singh Gate, Ward No. 57, Nawalgarh Road, Distt. Sikar (Raj.).
6. Damodar Singh Dewal S/o Govind Singh Dewal, R/o 21/1, Vaishali Nagar, Distt. Ajmer (Raj.).
7. Hitesh Prajapat S/o Bhanwar Lal Prajapat, R/o Behind Railway Mal Godown, Ward No. 45, Sujjangarh, Distt. Churu - 331507 (Raj.).
8. Hemant Kumar Darji S/o Hanuman Mal Darji, R/o Dhanawto Ka Bas, Ward No. 6, Bidasar, Distt. Churu (Raj.).
9. Harendra Phoolfagar S/o Urja Ram, R/o Village Khanwar, R/o Village Rol, Distt. Nagaur - 341027 (Raj.).
10. Sunil Punia S/o Balveer Singh Punia, R/o Village Tigiyas, Post Mandrella, Tehsil Chirawa, Distt. Jhunjhunu (Raj.).
11. Amit Kumar Sarwa S/o Ghasiram Sarwa, R/o Village Kamalsar, Post Dilo South, Tehsil Malsisar, Via Bissu, Distt. Jhunjhunu (Raj.).
12. Vinod Kumar Saharan S/o Ranjeet Singh, R/o Village - 21 MI, Post Bakhatanwali, Ward No. 03, Shri Ganganagar-335001 (Raj.).
13. Urmila Choudhary D/o Nanu Ram Choudhary, Aged About 28 Years, R/o Didwana Road, Mirdha Nagar, Kuchaman City, Distt. Nagaur (Raj.).
14. Kunwar Singh S/o Shri Dharam Pal, Aged About 31 Years, R/o





102/51, Shiv Mandir Wali Gali, Lohakhan, Ajmer, Distt. Ajmer  
(Raj.).

----Petitioners

Versus

1. The State Of Rajasthan, Through Its Additional Chief Secretary, Department Of Higher Education, Govt. Of Rajasthan, Secretariat, Jaipur.
2. The Commissioner, College Education, Siksha Sankul, Jln Road, Jaipur (Raj.).
3. Rajasthan Public Service Commission, Through Its Secretary, Ghoghra Ghati, Ajmer (Raj.).

----Respondents

S.B. Civil Writ Petition No. 18657/2022

Kajal Bardhar W/o Kapil Bardhar, Aged About 34 Years, R/o B-18F Bardhar Lane Todarmal Marg, Near Shiv Circle Banipark, Jaipur Rajasthan 3021016.

----Petitioner

Versus

1. State Of Rajasthan, Through The Principal Secretary, Higher Education Department, Government Of Rajasthan, Secretariat, Jaipur, Rajasthan.
2. Commissioner, Commissionerate Of College Education, Government Of Rajasthan, Block-Iv, Dr. S. Radhakrishnan Shiksha Sankul, Jawahar Lal Nehru Marg, Jaipur 302015, Rajasthan.
3. Rajasthan Public Service Commission, Through Its Secretary, Ajmer, Rajasthan.
4. University Grants Commission (Ugc), Through The Secretary, Bahadur Shah Zafar Marg, New Delhi.

----Respondents

S.B. Civil Writ Petition No. 18659/2022

Neelima Modi D/o Shri Mahendra Kumar Modi, Aged About 30 Years, R/o Shri Shyam Residency, Plot No. 28, Flat No. F-1, Ganpati Nagar, Mangyawas, Mansarovar, Jaipur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Department Of Higher Education, Secretariat, Jaipur.
2. The Commissioner, College Education, Shiksha Shankul, Jln Marg, Jaipur.
3. The Rajasthan Public Service Commission, Ajmer Through Its Secretary.

----Respondents

S.B. Civil Writ Petition No. 18730/2022

1. Sandhya Jajoria D/o Sunder Lal Jajoria, Aged About 36 Years, R/o D-19, Surya Nagar, District Alwar, Rajasthan - 301001.
2. Rohit Kumar S/o Rameshwar Prasad, Aged About 32 Years, R/o Village And Post Puranabas, Tehsil Neem Ka Thana, District





Sikar, Rajasthan - 332713.

3. Tabassum Parveen D/o Shiekh Sharafat Hussain, Aged About 36 Years, R/o 367/ 13, Ward No. 32, Behind New Madarsa Eidgah, Azad Nagar, Khanpura, District Ajmer, Rajasthan - 305001.
4. Varsha Maheshwari D/o Mahaveer Prasad Gattani, Aged About 33 Years, R/o 27-A, Alaknanda Colony, Near Adarsh Nagar Railway Station, District Ajmer - 305001.
5. Dr. Divyaa Sarswat D/o Nand Kishor Sarswat, Aged About 35 Years, R/o Plot No. 2B, Vinayak Vihar Colony, Jaipur Road, Ajmer, Rajasthan.
6. Gayatri Kumari D/o Rajesh Kumar, Aged About 29 Years, R/o 2/71, New Vidhyadhar Nagar, Sector 2, Jaipur - 302023.
7. Dinesh Kumar Meghvanshi S/o Ram Dayal, Aged About 35 Years, R/o Village Chat, Post Bhatiyani, Tehsil Nasirabad, District Ajmer, Rajasthan.
8. Shilpi Khandelwal D/o Gopal Prasad Khandelwal, Aged About 43 Years, R/o 171, Gayatri Nagar-A, Maharani Farm, Durgapura, Jaipur, Rajasthan - 302018.
9. Ati Agarwal D/o Rajesh Garg, Aged About 35 Years, R/o 3/19, Goverdhan Vilas Colony, 100 Feet Road, Sector -14, District Udaipur, Rajasthan.
10. Monika Sheoran D/o Anter Singh Sheoran, Aged About 31 Years, R/o C-18, Sector -1, Sainik Colony, District Churu, Rajasthan - 331001.
11. Chirag Parmar S/o Himmat Lal Parmar, Aged About 36 Years, R/o 3/94, Mukta Prasad Colony, District Bikaner.
12. Ashish Prajapati S/o Harji Lal Prajapati, Aged About 30 Years, R/o 2-B-15, Jawahar Nagar Housing Board, Matunda Road, District Bundi, Rajasthan.
13. Nidhi Jain D/o Narendra Lal Jain, Aged About 35 Years, R/o 68, Kiran Kunj, Opposite Lolo Shed A.c.f.c. Colony, District Jodhpur, Rajasthan.

----Petitioners

Versus

1. The State Of Rajasthan, Through Its Additional Chief Secretary, Department Of Higher Education, Govt. Of Rajasthan, Secretariat, Jaipur.
2. The Commissioner, College Education, Siksha Sankul, Jln Road, Jaipur (Raj.).
3. Rajasthan Public Service Commission, Through Its Secretary, Ghooghra Ghati, Ajmer (Raj.).

----Respondents

S.B. Civil Writ Petition No. 18793/2022

Dr. Ritika Moolchandani D/o Late Chelaram Gurubaxani W/o Late Shri Manish Kumar Moolchandani, Aged About 46 Years, R/o C- Block, Panchsheel Nagar, Behind Kshetrapal Hospital, District Ajmer, Rajasthan.

----Petitioner

Versus





1. The State Of Rajasthan, Through Its Additional Chief Secretary, Department Of Higher Education, Govt. Of Rajasthan, Secretariat, Jaipur.
2. The Commissioner, College Education, Siksha Sankul, Jln Road, Jaipur (Raj.).
3. Rajasthan Public Service Commission, Through Its Secretary, Ghoghra Ghati, Ajmer (Raj.).

----Respondents

S.B. Civil Writ Petition No. 18825/2022

Maryam Nasir Ansari D/o Shri Nasir Abrar, Aged About 31 Years, R/o C/o Raees Miyan Patwari, In Front Of Aslam Marriage Hall, Gulzar Bagh, Tonk-304001 (Raj.)

----Petitioner

Versus

1. State Of Rajasthan, Through Joint Secretary To The Government, Higher Education (Group-Iii) Department, Government Of Rajasthan, Jaipur.
2. University Of Rajasthan, Through Its Vice Chancellor, Jawahar Lal Nehru Marg, Jaipur (Raj.)
3. Controller Of Examination, University Of Rajasthan, Jawahar Lal Nehru Marg, Jaipur (Raj.)
4. Rajasthan Public Service Commission, Ajmer, Through Its Secretary, Jaipur Road, Ghoghara Ghati, Ajmer, Rajasthan 305001.

----Respondents

S.B. Civil Writ Petition No. 18832/2022

Komal Yadav D/o Kulwant Singh Yadav, W/o Dr. Vivek Yadav, Aged About 38 Years, 1553, Ahiron Ki Imli, Luharo Ka Khurra, Ramganj, Jaipur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of College Education, Govt. Of Rajasthan, Jaipur.
2. Rajasthan Public Service Commission, Jaipur Road, Ajmer Through Its Secretary.

----Respondents

S.B. Civil Writ Petition No. 18852/2022

Kamal Krishna Ludhani S/o Shri Raj Kumar Ludhani, Aged About 27 Years, R/o H. No.22/11, Gulmohar Colony, Vaishali Nagar, Ajmer (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Department Of Higher Education, Secretariat, Jaipur.
2. Rajasthan Public Service Commission, Jaipur Road, Ajmer Through Its Secretary.
3. Assistant Secretary, Rajasthan Public Service Commission, Jaipur Road, Ajmer.





4. Commissioner, College Education, Directorate Of College Education, Block-4, Shiksha Sankul, Jawahar Lal Nehru Marg, Jaipur

----Respondents

S.B. Civil Writ Petition No. 18883/2022

Naresh Dhaania S/o Man Singh, Aged About 47 Years, R/o 118, Rameshawardham Colony, Murlipura Scheme, Jaipur, Rajasthan - 302039.

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Additional Chief Secretary, Department Of Higher Education, Govt. Of Rajasthan, Secretariat, Jaipur.
2. The Commissioner, College Education, Siksha Sankul, Jln Road, Jaipur (Raj.).
3. Rajasthan Public Service Commission, Through Its Secretary, Ghooghra Ghati, Ajmer (Raj.).

----Respondents

S.B. Civil Writ Petition No. 19077/2022

Deep Singh Rathore S/o Shri Bajrang Singh Rathore, Aged About 38 Years, R/o 128, Shishak Colony, V-Street, Chopasni, District Jodhpur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Department Of Higher Education, Secretariat, Jaipur.
2. The Commissioner, College Education, Shiksha Shankul, Jln Marg, Jaipur.
3. The Rajasthan Public Service Commission, Ajmer Through Its Secretary.

----Respondents

S.B. Civil Writ Petition No. 19100/2022

Naveen Godhwal S/o Shri Jeetram Mali, Aged About 47 Years, Permanent R/o 12, Tekri, Main Chauraha, Near Police Line, Udaipur. At Present Care Of Late Shri Mahendrajeet Chauhan, 162/321, Pal Bichla, Near Shive Mandir, Ajmer, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Department Of Higher Education, Secretariat, Jaipur.
2. The Commissioner, College Education, Shiksha Shankul, Jln Marg, Jaipur.
3. The Rajasthan Public Service Commission, Ajmer Through Its Secretary.

----Respondents

S.B. Civil Writ Petition No. 19462/2022

Priyanka Chauhan D/o Dr. Bharat Veer Singh W/o Late Neeraj Patni, Aged About 43 Years, R/o C-561, Parikrama Path, Opposite St.





Stephen School, Panchsheel, District Ajmer.

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Additional Chief Secretary, Department Of Higher Education, Govt. Of Rajasthan, Secretariat, Jaipur.
2. The Commissioner, College Education, Shiksha Sankul, Jln Road, Jaipur (Raj.).
3. Rajasthan Public Service Commission, Through Its Secretary, Ghoghra Ghati, Ajmer (Raj.).
4. Vice-Chancellor/ Registrar, Bhagwant University, Sikar Road, Ajmer - 305023.

----Respondents

S.B. Civil Writ Petition No. 19572/2022

Namrata Pabbun D/o Nirmal Kumar Pabbun, Aged About 39 Years, R/o C/o M. Farmewala, Mohan Colony, Banswara, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Department Of Higher Education, Secretariat, Jaipur.
2. The Commissioner, College Education, Shiksha Shankul, Jln Marg, Jaipur.
3. The Rajasthan Public Service Commission, Ajmer Through Its Secretary.

----Respondents

S.B. Civil Writ Petition No. 19683/2022

Madhavi Singaria D/o Shri Netram Singaria, Aged About 30 Years, R/o 137, Bhagwati Nagar-I, Kartarpura, District Jaipur, Rajasthan.

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Additional Chief Secretary, Department Of Higher Education, Govt. Of Rajasthan, Secretariat, Jaipur.
2. The Commissioner, College Education, Shiksha Sankul, Jln Road, Jaipur (Raj.)
3. Rajasthan Public Service Commission, Through Its Secretary, Ghoghra Ghati, Ajmer (Raj.)

----Respondents

S.B. Civil Writ Petition No. 19720/2022

Neha Shekhawat D/o Shri Arjun Singh Shekhawat, Aged About 32 Years, R/o Plot No. B-93, Singh Bhoomi, Khatipura, Jaipur (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through The Principal Secretary, Department Of Higher Education, Secretariat, Jaipur.
2. Rajasthan Public Service Commissioner, Jaipur Road, Ajmer Through Its Secretary.





3. Assistant Secretary, Rajasthan Public Service Commissioner,  
Jaipur Road, Ajmer.

----Respondents

S.B. Civil Writ Petition No. 19721/2022

Bajrang Lal S/o Shri Krishan Kumar, Aged About 34 Years, R/o Village  
Post Kumharia, Tehsil And District Fatehabad (Haryana).

----Petitioner

Versus

1. State Of Rajasthan, Through The Principal Secretary,  
Department Of Higher Education, Secretariat, Jaipur.
2. Rajasthan Public Service Commissioner, Jaipur Road, Ajmer  
Through Its Secretary.
3. Assistant Secretary, Rajasthan Public Service Commissioner,  
Jaipur Road, Ajmer.

----Respondents

S.B. Civil Writ Petition No. 1089/2023

Yash Bapna Son Of Sh. Dinesh Kumar Bapna, Aged About 42 Years,  
Resident Of 164, Muktanand Nagar, Gopalpura Bye Pass, Jaipur.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Higher  
Education Department, Secretariat, Jaipur.
2. Director, College Education, Jaipur.
3. Rajasthan Public Service Commission, Ajmer, Through Its  
Secretary.

----Respondents

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For Petitioner(s)	:	Mr. Vigyan Shah, Mr. Akhil Simlote Mr. Harender Neel, Mr. Amit Jindal Mr. Ankul Gupta, Mr. Ram Pratap Saini Mr. Mukesh Pal Jadoun, Mr. Hemant Gupta Mr. Naqvi Sehban Mr. Aayush Mall
For Respondent(s)	:	Mr. Prakhar Gupta for Dr. V.B. Sharma, AAG Mr. M.F. Baig Mr. Nitin Jain Mr. Aditya Sharma

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**HON'BLE MR. JUSTICE SUDESH BANSAL**

**Judgment**

**Reserved On:** **12/10/2023**

**Pronounced On:** **November 4<sup>th</sup>, 2023**

**BY THE COURT:**

1. All writ petitions are based on similar set of facts and an  
identical issue has been raised therein, therefore, with consent of



counsel for both parties, all writ petitions were tagged and have been heard together. This common judgment would decide all writ petitions.

2. The issue which has come up for consideration before this Court is as to whether the candidature of writ petitioners for the post of Assistant Professor (Business Administration) in recruitment-2020 has wrongly been rejected by the RPSC and petitioners on the basis of qualification of Master in Business Administration (MBA) are eligible for appointment on the post of Assistant Professor (Business Administration) in College Education Department, under the Rajasthan Education Service (Collegiate Branch) Rules, 1986 (hereinafter referred to as "Service Rules, 1986").

3. For the sake of convenience, facts from SBCWP No.122/2023: Bhumika Rathore Vs. State of Rajasthan, have been taken for consideration.

4. The relevant facts, in brief, are that the Rajasthan Public Service Commission, Ajmer (for short "RPSC") vide advertisement dated 18.12.2020, notified vacancies for the post of Assistant Professor to be directly recruited under the Rules of 1986 to be appointed in College Education. Petitioner is concerned with the post of Assistant Professor (Business Administration) for which 127 posts were notified in the advertisement and, the eligibility for the post in question as per Service Rules, 1986 is indicated in the advertisement itself, which reads as under:-

"उक्त सभी पदों के लिए शैक्षणिक योग्यताएं (राजस्थान शिक्षा सेवा (महाविद्यालय शाखा) नियम, 1986 की अनुसूची- 1 के बि० सं० 8 के अनुसार):-





1. (I) Good academic record with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed at the Master's Degree level in the relevant subject from an India University, or an equivalent degree from an accredited foreign university.

(ii) Besides fulfilling the above qualifications, the candidate must have cleared the National Eligibility Test (NET) conducted by the UGC, CSIR, or similar test accredited by the UGC like SLET/ SET.

(iii) Candidates, who are, or have been awarded a Ph.D. Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009, shall be exempted from the requirement of the minimum eligibility condition of NET/ SLET/ SET for recruitment and appointment of Assistant Professor.

(iv) NET/ SLET/ SET shall also not be required for such masters programmes in disciplines for which NET/ SLET/ SET is not conducted."

(underline is mine)

5. Petitioner states to possess the qualification of Masters in Business Administration (MBA) and UGC NET in the subject of management. Petitioner applied for the post of Assistant Professor (Business Administration) with the understanding that degree of MBA is relevant subject of Master's degree, required for the post in question and she also qualified UGC NET in "Management", therefore, she fulfills the requisite eligibility/qualification for the post. Petitioner appeared in the written examination and was shortlisted for interview/document verification. At that stage, candidature of petitioner was rejected by the RPSC vide order dated 19.12.2022 (Ann-1), on two counts:

(i) As per advertisement, Masters degree in relevant subject (Business Administration) is an essential qualification and petitioner does not possess the Masters degree in the Commerce stream; and





(ii) Petitioner does not possess the requisite certificate of NET/SLET/SET or Ph.D. in the relevant subject of Business Administration/Commerce.

6. It appears that the RPSC while not accepting the qualification of MBA and UGC NET in management, to be included in the requisite qualification for the post in question, relied upon the report of Expert Committee dated 15.03.2017 (Ann-3), forwarded by the Commissioner, College Education to RPSC, through letter dated 26.05.2017 (Ann-4). In the report of expert and the letter, it was clearly observed that "The persons holding the qualification of MBA/ MBA with specialization in functional and related area/ MHRM/ MIB/ MMS/ MBI, are not eligible for the post of College Lecturer (Business Administration) (Commerce)." Therefore, petitioner, while challenging the rejection order by the RPSC dated 19.12.2022, has also challenged the letter dated 26.05.2017, issued by the Commissioner, College Education to RPSC as also the report of Expert Committee dated 15.03.2017, in the present writ petition and prayed to quash and set aside the same. Petitioner has also prayed to issue directions to respondents to treat the petitioner eligible for the post of Assistant Professor (Business Administration), in pursuance to the advertisement dated 18.12.2020 and to consider her candidature on merits to give appointment on the post in question.

7. In support of her case, petitioner has relied upon previous report of Expert Committee of three members constituted by the RPSC dated 07.06.2012 (Ann-15) as also placed reliance on the report of Equivalence Committee dated 31.10.2022 (Ann-31), produced on record along with the application (2/2023) dated





26.06.2023. It has additionally been prayed in the application that since in the Equivalence Committee report dated 31.10.2022, the Business Administration has been determined to be relevant/allied subject as per UGC regulations 2018, which have been followed by the State Government, vide Notification dated 14.10.2022 amending the Rajasthan Education Services (College Branch) (Amendment) Rules, 2022 w.e.f. 18.07.2018 i.e. prior to the present advertisement, therefore, petitioner be declared eligible for the post in question in light of Expert Committee report dated 31.10.2022 at least.

8. In the joint reply to writ petition, filed by State and College Education, respondents No.1 and 2 the eligibility of petitioner for appointment on the post of Assistant Professor (Business Administration) has been declined, stating inter alia, that the requisite qualification for the post in question as per advertisement dated 18.12.2020 is that the candidate must have Master's degree in the relevant subject and must have cleared the National Eligibility Test (NET). The degree of MBA as possessed by petitioner, is in technical education as per norms of All India Council for Technical Education (AICTE) and further the NET qualification of petitioner is in the subject of "Management" which is different from the Commerce stream. In respect of report of Expert Committee dated 31.10.2022, it has been submitted that the committee has adhered to the decision of the Hon'ble High Court and while determining the relevant/allied subject of Business Administration as per UGC Regulations, 2018, two subjects have been held as allied and relevant subject which are (i) Business Administration and Business Management (Commerce





Stream); and (ii) Commerce. As per report, UGC NET is required in the subject "Commerce". Thus, it has been clarified that the report does not include the degree of Master in Business Administration as allied/relevant subject in Business Administration as per UGC Regulations, 2018. The object has also been made that the eligibility of petitioner is to be seen in terms of the advertisement dated 18.12.2020, and the report of Equivalence Committee dated 31.10.2022 does not apply to such advertisement having no retrospective effect. Reliance has been placed on two previous judgments of Rajasthan High Court, in case of **Ity Patni Vs. University of Rajasthan: SBCWP No.10343/2018** decided vide order dated 07.01.2019 wherein the similar issue was decided by the High Court and the degree of Master in Business Administration (MBA) was not treated as eligible and equivalent qualification for appointment on the post of Assistant Professor (Business Administration) in the Department of Commerce, University of Rajasthan, for which the requisite qualification was M.Com in Business Administration, and on the judgment in case of **Vishnu Bawaree Vs. State of Rajasthan & Ors.: SBCWP No.25863/2018** dated 04.12.2018, which has been affirmed by the Division Bench vide order dated 26.07.2021 in DB SAW 1613/2018.

9. In the reply filed by respondent No.3- RPSC, it has been contended that since the qualification of petitioner, MBA is not Master's degree in the relevant subject as also the UGC NET of petitioner is in subject of management, therefore, the candidature of petitioner has rightly been rejected on the basis of letter dated 26.05.2017 issued by the College Education, whereby report of





Expert Committee dated 15.03.2017 was forwarded to RPSC with the opinion that the MBA degree is not covered in the requisite qualification for appointment on the post of College Lecturer (Business Administration) (now known as Assistant Professor). In respect of previous Expert Committee report dated 07.06.2012, it has been stated that the previous report was made in respect of the previous recruitment pursuant to advertisement dated 21.09.2010, which has no effect on the present recruitment pursuant to the advertisement dated 18.12.2020 and stands superseded by the report of Expert Committee comprising of six members dated 15.03.2017.

10. In rejoinder to the reply, filed by petitioner, it has been contended that the UGC Regulations of 2010 were amended and superseded by the University Grants Commission by promulgating UGC Regulations, 2018 vide notification dated 18.07.2018. As per UGC Regulations- 2018, the minimum qualification for appointment of Lecturers in the University and Colleges has been amended. Regulations of 2010 recognize only Master's degree in the relevant subject, whereas in the Regulations, 2018, the minimum requisite qualification is, Master's degree in a concerned/ relevant/ allied subject. The Government of Rajasthan has followed the UGC Regulations, 2018 w.e.f. 18.07.2018 vide Notification of DOP dated 14.10.2022, and, the Rajasthan Education Services (Collegiate Branch) (Amendment) Rules, 2022 have been promulgated, which prescribe the requisite qualification as Master's degree in concerned/ relevant/ allied subject instead of Master's degree in relevant subject. As per Notification of DOP dated 14.10.2022, the amendment in Rules have come in force





w.e.f. 18.07.2018, therefore, such amendment is applicable to the present recruitment started subsequent thereto, pursuant to advertisement dated 18.12.2020. The alternative contention of petitioner is that treating the MBA degree to be included at least in the allied subjects of PG in Business Administration, petitioner be held eligible for the post in question, in terms of UGC Regulations, 2018 followed by the State Government vide notification dated 14.10.2022 w.e.f. 18.07.2018. Reliance has been placed on the judgment of the Division Bench dated 13.12.2021 passed in **DB Civil Writ Petition No.307/2021: Mali Ram Hindala Vs. The State of Rajasthan** and other analogous matters. Learned counsel for petitioner has also strongly placed reliance on the judgment dated 27.04.2013, delivered by the Coordinate Bench of Rajasthan High Court in case of **Kailash Chand Meena Vs. Rajasthan Public Service Commission: SBCWP No.18837/2012.**

11. Heard counsel for both parties at length, perused the material available on record and judgments referred by counsel for both parties.

12. The discussion and reasons to arrive at conclusion by this Court are as under:

(i) Undisputedly, petitioners applied for the post of Assistant Professor in subject (Business Administration), pursuant to advertisement dated 18.12.2020 issued by the RPSC. As per advertisement, direct recruitment of Assistant Professor in the College Education Department is required to be made under the Rajasthan Education Service (Collegiate Branch) Rules, 1986. The qualification prescribed in the Rules of 1986, is in consonance and





conformity with the minimum qualifications as prescribed by the UGC for appointment of teachers under the UGC Regulations, 2010. The requisite qualification for the post in question as notified in the advertisement is Master's degree in the relevant subject and the qualification of NET/ SLET/ SET as the case may be or Ph.D. in lieu thereof. The detail of qualification as indicated in the advertisement, has already been referred hereinabove in para 4.

(ii) In respect of qualification of MBA/ MBA with Specialization in post functional and related areas/ MHRM/ MIB/ MMS/ MBI, in the subject Business Administration, to consider such qualification as eligible and equivalence with the qualification of M.Com in Business Administration conducted in the College and University, an Expert Committee comprising of six members was constituted under instructions of Commissionerate, College Education, Jaipur and the Expert Committee opined and made its recommendation dated 15.03.2017 (Ann-4 and Ann-R/2) in the manner that "The following recommendation were made by the Committee- "In college and university of state M.Com in Business Administration is conducted in commerce faculty and MBA is conducted in Faculty of Management studies. This shows that there is a vast difference in the orientation and objectives of the two courses. There is a NET qualification requirement for the appointment of a lecturer, which are different for the faculty of commerce and faculty of management studies. All the MBA courses require six weeks of industry summer training while it is not required in the M.Com (Business Administration) in commerce faculty. Along with the above, MHRM (Master of Human Resource Management), MIB





(Master of International Business), MBI (Master of Banking & Insurance) courses are different from the M.Com (Business Administration) course. After observing and examining the entire facts, and records, the MBA/ MBA with specialization in post-functional and related areas/ MHRM/ MIB/ MMS/ MBI degree holders are not eligible for the post of Assistant Professor in Business Administration."

(iii) The report of Expert Committee was forwarded by the College Education to the RPSC along with letter dated 26.05.2017. Thus, by the report of Expert Committee and letter, it is clear that the educational qualification of MBA has not been treated as Master's degree in relevant subject, which is required qualification for appointment for the post of Assistant Professor (Business Administration). Thus, following such report of Expert Committee and decision of appointing authority, the Commissionerate, College Education, the RPSC has rightly rejected the candidature of petitioners as having no requisite qualification.

(iv) Petitioners have sought to challenge the report of Expert Committee dated 15.03.2017 as also the letter dated 26.05.2017, on the basis of previous report of Expert Committee dated 07.06.2012 (Ann-15). The previous report of Expert Committee was comprising of three members was constituted by the RPSC, in the middle of process of recruitment of College Lecturers in Business Administration pursuant to advertisement dated 21.09.2010 and then the RPSC itself issued corrigendum dated 29.10.2012, treating the MBA degree holders as eligible and they were also permitted to apply. Such corrigendum dated 29.10.2012 came to be challenged by way of filing writ petition





No.18837/2012 titled **Kailash Chand Meena Vs. The State of Rajasthan**, wherein the High Court did not interfere with and dismissed the said writ petition vide order dated 27.04.2013, in the backdrop of facts that such exercise was made by the RPSC to fill all advertised posts, since the eligible candidates after excluding the MBA degree holders were not found sufficient in number.

(v) In the present cases, the RPSC itself has taken a stand that the previous report dated 07.06.2012 stands superseded by the high level Expert Committee report dated 15.03.2017, comprising of six members, constituted under instructions of College Education, as also on the basis of letter dated 26.05.2017, issued by the College Education to RPSC. Thus, on facts, the RPSC itself has taken the erstwhile report dated 07.06.2012 as superseded by the subsequent report of higher level Expert Committee dated 15.03.2017 and same has been held binding upon the RPSC. It may be observed herein that the erstwhile report of Expert Committee dated 07.06.2012, though, was relied upon by the Coordinate Bench of this Court, in case of Kailash Chand Meena (supra), however, same was not accepted as an operative report for all time to come and same was treated as confined to the recruitment by the RPSC pursuant to advertisement dated 29.09.2010, since the judgment of Kailash Chand Meena (supra) was not followed by the High Court in subsequent decisions delivered in case of Ity Patni (supra) and Vishnu Bawaree (supra). The judgment delivered in case of Vishu Bawaree (supra) has been affirmed by the Division Bench, which has binding effect on this Court. Thus, petitioner cannot be allowed to rely upon the





report of Expert Committee dated 07.06.2012 in respect of the present recruitment pursuant to advertisement dated 18.12.2020, just to dispute the undisputed and subsequent report of Expert Committee dated 15.03.2017 comprising six members which has been followed by the College Education as well as by the RPSC.

(vi) It is trite law that the High Court in exercise of its jurisdiction of judicial review is not required to interfere with, in such realm and jurisdiction of the recruitment agency and the appointing authority in respect of deciding the requisite and eligible qualification of candidates for appointment for the post in question as per Rules and on the basis of opinion of Expert Committee. Unless it is not established and proved that the decision of the State Government and RPSC to rely upon such report of Expert Committee dated 15.03.2017 is based on some extraneous or irrelevant considerations or actuated by malafides in any manner, this Court is not required to exercise its power of judicial review in this regard. This Court finds support to reject the challenge to the report of Expert Committee dated 15.03.2017 so also to letter dated 26.05.2017, on the basis of judgment of Supreme Court, delivered in case of **Mohd. Shujat Ali Vs. Union of India [1974 AIR 1631]**. It has been held by the Supreme Court that the question in regard to equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standard, and, fulfilled attainments of such qualification and where the decision of the Government is based on recommendations of an expert body, which possess the requisite knowledge, skill and expertise for adequately discharging such function, this Court, uninformed by relevant data and





unaided by the technical insights necessary for parties of determining equivalence would not lightly disturb the decision of the Government. It is only where the decision of Government is shown to be based on extraneous or irrelevant considerations or actuated by malafies or irrational and perverse or manifestly wrong that the Court would reach out its lethal area and strike down the decision of the Government.

Thus, placing reliance by petitioners on the previous Expert Committee report dated 07.06.2012 is of no consequence and challenge to the Expert Committee report dated 15.03.2017 and upon the decision of the State Government in the letter dated 26.05.2017 fails and rejected.

(vii) It cannot be disputed that the Master's degree in Business Administration (MBA) is a post graduate degree in the field of management and it is a technical education as per norms of All India Council for Technical Education (AICTE). For appointment on the post of Assistant Professor (Business Administration) in the higher education/colleges, the eligibility of candidates is required to be fulfilled as envisaged under the Rules of 1986 following UGC Regulations, which recognizes the qualification of post graduation, like M.Com in Business Administration in the Commerce stream as eligible qualification.

The similar issue came for consideration before the Coordinate Bench of this Court, in case of **Ity Patni** (supra) where petitioner raised an issue that the degree of Master in Business Administration (MBA) be treated as equivalent to M.Com in Business Administration and accordingly, petitioner be held eligible for appointment on the post of Assistant Professor (Business





Administration) in the Department of Commerce, University of Rajasthan. The High Court observed that the MBA is a technical/professional degree and not an academic degree as required for appointment to the post of Assistant Professor (Business Administration) in the Department of Commerce, University of Rajasthan. The Court opined that "I am of the considered view that the post graduate requirement for the post of Assistant Professor in the Department of Commerce of a University would necessarily be academic and not a technical/professional, but is plainly not an academic qualification obtained under the Department of Commerce as it is only following approval of the course by the All India Council for Technical Education, from the Rajasthan Technical University." The judgment delivered in case of **Kailash Chand Meena** (supra) was considered and distinguished that same was passed under a wholly distinct regime.

In another case of **Vishu Bawaree** (supra), the petitioner filed writ petition before the High Court of Rajasthan for appointment on the post of Lecturer in subject EAFM. The eligibility for the post was a post graduate (NET/SLET/SET or a Ph.D. in lieu thereof in the subject concerned. Petitioner was in possession of the degree of MBA. The Court opined that whether both qualifications are equivalent, as contended by petitioner is not for this to address and adjudicate, but the issue lies in the domain expertise of the concerned academic experts. The qualification of MBA was not held as eligible qualification for the post of Lecturer in EAFM. The writ petition was dismissed. The issue traveled to the Division Bench as petitioner preferred DB





SAW No.1613/2018. The Division Bench upheld that judgment of learned Single Judge and dismissed the appeal following the judgment of Hon'ble Supreme Court in case of **Zahoor Ahmad Rather Vs. Sheikh Imtiyaz Ahmad [(2019) 2 SCC 404]**. It would be appropriate to reproduce the relevant observations/findings of the Division Bench which are applicable to the present case as well against petitioners, as under:



"9. Indisputably, the eligibility qualification prescribed for recruitment to the post of Lecturer in EAFM is Masters Degree in EAFM and the qualification of NET/ SLET/ SET or Ph.D. in the concerned subject. Admittedly, the appellant does not possess the qualification as prescribed rather, he claims that the qualification of MBA acquired by him should be considered equivalent to Post Graduation in EAFM.

10. It is well settled that it is the prerogative of the State as employer to prescribe the eligibility qualification for recruitment to any post. It is not within the domain of the Court to read something in the statutory qualification prescribed, which is not there and expand the eligibility qualification prescribed or to prescribe a qualification different than the statutorily prescribed on the basis of possible intendment. Even, the candidate possessing the higher qualification cannot always claim that he satisfies the requirement of lower eligibility qualification prescribed for any post in service by the State as an employer, taking into consideration the functions to be discharged by the candidate to be appointed on the concerned post. Thus, the learned Single Judge has committed no error in holding that the matter with regard to the equivalence of qualification cannot be gone into by the Court and it is better left to be decided by academic experts qualified for the work.

11. Moreover, in the instant case, the eligibility qualification as prescribed require Masters Degree in specific subjects and thus, the question of examining the issue of equivalence of the degree of MBA acquired by the appellant, does not arise for consideration.

12. In *Zahoor Ahmad Rather & Ors. vs. Sheikh Imtiyaz Ahmad & Ors.*: (2019) 2 SCC 404, where the issue involved was whether the qualification of Diploma in Electrical Engineering/Electronics &



Communication would satisfy the requirement of prescribed eligibility qualification of Matriculation with ITI in Electric Trade, the Hon'ble Supreme Court, categorically held:

"26. We are in respectful agreement with the interpretation which has been placed on the judgment in Jyoti KK in the subsequent decision in Anita (supra). The decision in Jyoti KK turned on the provisions of Rule 10(a)(ii). Absent such a rule, it would not be permissible to draw an inference that a higher qualification necessarily pre-supposes the acquisition of another, albeit lower, qualification. The prescription of qualifications for a post is a matter of recruitment policy. The State as the employer is entitled to prescribe qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. Similarly, equivalence of a qualification is not a matter which can be determined in exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the state, as the recruiting determine. The decision in Jyoti KK turned on a specific statutory rule under which the holding of a higher qualification could presuppose the acquisition of a lower qualification. The absence of such a rule in the present case makes a crucial difference to the ultimate outcome. In this view of the matter, the Division Bench of the High Court was justified in reversing the judgment of the learned Single Judge and in coming to the conclusion that the appellants did not meet the prescribed qualifications. We find no error in the decision of the Division Bench.

27. While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The state is entrusted with the authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision making. The State as a public employer may well take into account social perspectives that require





the creation of job opportunities across the structure. All these are essentially matters of policy. Judicial review must tread warily. That is why the decision in Jyoti KK must be understood in the context of a specific statutory rule under which the holding of a higher qualification which presupposes the acquisition of a lower qualification was considered to be sufficient for the post. It was in the context of specific rule that the decision in Jyoti KK turned.

28. Ms Wadia sought to draw sustenance from the fact that the holder of an ITI certification can obtain lateral entry to the diploma course. The point of the matter, however, is that none of the appellants fit the description of candidates who had secured an ITI certification before seeking a lateral entry to a diploma course. Plainly, when an ITI with matric is required, a person who does not hold that qualification is not eligible." (emphasis supplied)

12. In view of the law laid down by the Hon'ble Supreme Court in Zahoor Ahmad (supra), it can be safely concluded that a candidate for recruitment to any post must possess the requisite qualification statutorily prescribed and the Court exercising the power of judicial review cannot expand upon the ambit of prescribed qualification. The equivalence of qualification is in exclusive domain of the recruiting authority.

13. For the aforementioned reasons, the order impugned passed by the learned Single Judge does not warrant interference by us in exercise of intra-Court appeal jurisdiction.

14. In the result, the special appeal fails, it is hereby dismissed."

In the present case, the report of Expert Committee dated 15.03.2017, stands against petitioners and that report has been followed by respondents, to reject the candidature of petitioners treating their qualification of MBA and UGC-NET in subject Management as ineligible for the post of Assistant Professor (Business Administration). The decision of the State and RPSC, therefore, have concurrence with the view of learned Single Judge expressed in case of **Ity Patni** (supra) and **Vishnu Bawaree**





(supra) as also observations of the Division Bench in case of **Vishnu Bawaree**, and in that view of matter, respondents cannot be directed to treat petitioners eligible, for appointment on the post in question on the basis of qualification of MBA and thus, candidature of petitioners has rightly been rejected as not eligible for the post in question.

(viii) As far as reliance placed by petitioners on the report of Equivalence Committee dated 31.10.2022 is concerned, petitioners made a persuasive attempt to persuade the Court that the subject of Business Administration has been decided as allied/relevant subject by the committee as per UGC Regulations, 2018. But a perusal of the report of committee reveals that at serial No.22 while determining the allied subjects of subject Business Administration, only two subjects have been held to be allied subjects (i) Business Administration and Business Management (Commerce Stream); and (ii) Commerce. Further as per report, the UGC NET is required in subject Commerce. Thus, it is wholly incorrect and wrong on the part of petitioner to state that in the Equivalence Committee report dated 31.10.2022, the degree of MBA has been included in the allied subjects to the subject of Business Administration. In addition to above discussion on merits, it is noteworthy that respondents No.1 and 2 have stated that the report of Equivalence Committee dated 31.10.2022 is not applicable to the present recruitment of 2020, as the report cannot be held applicable and effective retrospectively. In counter to such arguments, the contention of counsel for petitioners is that UGC Regulations, 2018 which promulgated vide notification dated 18.07.2018 and followed by the State Government vide



notification dated 14.10.2022 issued by the DOP w.e.f. 18.07.2018, therefore, UGC Regulations, 2018 should be held applicable to the present recruitment issued by the RPSC vide advertisement dated 18.12.2020, in light of the judgment of Division Bench in case of **Mali Ram Hindala** (supra). He submits that the report of Equivalence Committee came in furtherance to determination of the allied/relevant subjects in the concerned subject of post graduation in view of UGC Regulations, 2018.

This Court finds that the contention of counsel for petitioner is not acceptable and placing reliance upon the judgment of **Mali Ram Hindala** (supra) is also misplaced. For the applicability of UGC Regulations, 2018 to the present recruitment. In that judgment, the Division Bench considered the applicability of UGC Regulations, 2018 in respect of post of Assistant Professor (Botany, Zoology and Physics) pursuant to present recruitment advertisement dated 18.12.2020 and observed that the State was bound to follow the eligibility criteria prescribed by the UGC, in the present recruitment process, which was initiated thereafter, however, while considering the grant of relief to petitioners, the Division Bench has held and observed in the judgment as under:

“While permitting the petitioners to participate further in the selection process, we would request the State Government to form a committee of experts to consider whether the petitioners can be stated to have Master's Degree in concerned/relevant/allied High subject of Botany or Zoology as the case may be. In case of Civil Court Writ Petition No,15064/2020, this question may also arise in Ortcia relation to subject of Physics. However, this relief cannot be extended in favour of those candidates who have neither applied to the RPSC nor have approached this Court. Granting any such relief in favour of non-petitioners would derail the entire





selection process undertaken by the State Government which has reached at an advanced stage. However, for the future, we would expect the State Government to undertake this exercise for all subjects so that any future selection process does not run into similar legal controversy. The Government may also consider amending the rules suitably."

(underline is mine)

Therefore, in light of observations made by the Division Bench, UGC Regulations, 2018 do not apply upon petitioners.

There is another reason as well not to accept the alternative case of petitioners, because petitioners have already applied and participated as per the eligibility criteria prescribed in the advertisement dated 18.12.2020, therefore, they are estopped under law to abide by the such qualification and it is not permissible in law for the petitioner to rely upon some additional qualification for claiming eligibility by placing reliance on UGC Regulations, 2018. Once petitioners failed to establish their qualification of MBA to be eligible qualification for the post in question in terms of advertisement dated 18.12.2020, the alternative case that the MBA be treated as allied subject to the Business Administration, if do not fall in the related subject cannot be accepted. At the cost of repetition, it is noteworthy to mention here that though even as per qualification prescribed in the UGC Regulations, 2018, petitioners have not been found eligible as the MBA has not been determined to be the allied subject of Business Administration for the purpose of appointment of teachers in Colleges.

In this view, the alternative case of petitioners that in light of the UGC Regulations, 2018, whereby the UGC Regulations, 2010 have been superseded and the minimum requirement of post graduation in related subject has been substituted by the post





graduation in related/ allied/ concerned subject, therefore, the qualification of MBA falls in at least allied subject and accordingly, petitioners be treated as eligible as per UGC Regulations, 2018, has no force neither on facts nor on law.

13. The upshot of discussion and deliberations made hereinabove is that, this Court reaches to the conclusion that on the basis of Master's degree in Business Administration (MBA), and the UGC NET in subject management, petitioners have rightly not been held eligible for appointment on the post of Assistant Professor (Business Administration) and accordingly, the RPSC has committed no illegality in rejecting the candidature of petitioners, treating them ineligible for the post in question, pursuant to advertisement dated 18.12.2020. Challenge to the report of Expert Committee dated 15.03.2017 and to the decision of the State under letter dated 26.05.2017 is also rejected.

14. As a result, all these writ petition fail and are hereby dismissed. It is observed that the interim orders passed in favour of petitioners allowing them to appear in the interview, come to an end, with dismissal of writ petitions on merits.

15. Stay applications and other pending application(s), if any, stand disposed of.

**(SUDESH BANSAL),J**

NITIN /