

# State Of Andhra Pradesh And Ors vs Shaik Mahibulla Sharief on 22 February, 2017

**Equivalent citations:** AIR 2017 SUPREME COURT 1233, 2017 (5) SCC 237, 2017 LAB. I. C. 1455, AIR 2017 SC (CIVIL) 1263, (2017) 153 FACLR 326, (2017) 3 LAB LN 284, (2017) 2 ANDHLD 35, (2017) 2 SCT 574, (2017) 5 SERVLR 197, (2017) 3 SCALE 130, (2017) 2 SERVLJ 4, 2017 (3) KCCR SN 317 (SC)

**Author:** L. Nageswara Rao

**Bench:** L. Nageswara Rao, S. A. Bobde

Non-Reportable

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL No.3094 of 2017  
(Arising out of SLP (C) No.26876 of 2016)

STATE OF ANDHRA PRADESH AND ORS.

Versus

SHAIK MAHIBULLA SHARIEF

.... Appellant(s)

....Respondent(s)

## J U D G M E N T

L. NAGESWARA RAO, J.

Leave granted.

The Appellants were directed by the Andhra Pradesh Administrative Tribunal at Hyderabad (hereinafter referred to as the ‘Tribunal’) to consider the Respondent for appointment to the post of Language Pandit (Telugu) Grade-II. The High Court confirmed the said direction by dismissing the Writ Petition filed by the Appellants. The Appellants have filed this Appeal challenging the correctness of the judgment of the High Court.

2. The Appellant-State issued a notification for recruitment of teachers in Government schools. The Respondent applied for the post of Language Pandit (Telugu). He participated in the selection process and secured rank No.1195. His name was included in the provisional selection list of Language Pandit (Telugu) Grade-II under the B.C. (E) quota for East Godavari District. There were five posts earmarked for B.C.(E) category. The Respondent was one of two candidates selected in the said category. As the Respondent was not selected and appointed, he approached the Andhra Pradesh Administrative Tribunal by filing O.A. No.10250 of 2012. An interim order was passed by the Tribunal on 26.12.2012 by which the Appellants were directed to consider the case of the Respondent for appointment as Language Pandit (Telugu).

3. The Respondent passed BA with History, Economics and Political Science in the year 1998 and B.Ed. with Telugu and Social Studies as methodology subjects in the year 2005. He also passed BA in Telugu literature as a single subject from Dr. B.R. Ambedkar Open University, Hyderabad in the year 2007. He also completed MA in Telugu in distance mode from Dr. B.R. Ambedkar Open University in the year 2013. The Appellants contended before the Tribunal that the Respondent was not eligible for appointment as he did not possess the requisite educational qualifications. The Appellants relied upon the Andhra Pradesh Direct Recruitment for the post of Teachers (Scheme of Selection) Rules, 2012. According to Rule 4 (2) (iii) (a) of the said Rules, the qualification prescribed for the post of Language Pandit (Telugu) is as follows:-

“Must possess a Bachelor’s Degree with Telugu as the main subject or one of the three equal optional subjects or Bachelor’s Degree in Oriental Language in Telugu (BOL) or its equivalent or a Post Graduate Degree in Telugu and B.Ed with Telugu as methodology or Telugu Pandit Training or its equivalent.”

4. The Tribunal held that the Respondent possessed B.Ed. degree with Telugu and Social Studies as methodology subjects and BA in Telugu literature as single subject from Dr. B.R. Ambedkar Open University. According to the Tribunal, the Respondent was eligible for being considered for appointment as Language Pandit (Telugu) as the Rules did not disqualify a degree from Dr. B.R. Ambedkar Open University. On the basis of the said findings, the Tribunal directed the Appellants to consider the case of the Respondent for appointment to the post of Language Pandit (Telugu) Grade- II.

5. The Appellants challenged the judgment of the Tribunal by filing a Writ Petition which was dismissed by the High Court by its judgment dated 22.04.2016. The High Court approved the judgment of the Tribunal on the ground that the Respondent possessed a degree exclusively in Telugu literature and it cannot be said that he was not qualified when a person who possessed a degree in Oriental Language in Telugu was qualified. The High Court also found fault with the Government in not seeking the opinion of Dr. B.R. Ambedkar Open University whilst determining the equivalence of the degree granted by it. The High Court also held that the Tribunal had correctly interpreted the Rules. The correctness of the judgment of the High Court is assailed in this appeal.

6. The appointment to the post of Language Pandit (Telugu) is governed by the Andhra Pradesh Direct Recruitment for the post of Teachers (Scheme of Selection) Rules, 2012. Rule 4(2) (iii) (a)

contemplates that the educational qualifications for appointment to the above post is a bachelor's degree in Telugu as main subject or one of the three equal optional subjects or bachelor's degree in oriental language in Telugu, (BOL) or its equivalent or a post graduate degree in Telugu and B.Ed. with Telugu as methodology or Telugu Pandit Training or its equivalent. The Respondent passed BA with History, Economics and Political Science and holds a bachelor's degree in Telugu as a single subject from Dr. B.R. Ambedkar Open University. He also has B.Ed. with Telugu as methodology. The question that arises for consideration in this case is whether the said bachelor's degree in Telugu literature as a single subject from Dr. B.R. Ambedkar Open University is equivalent to a bachelor's degree with Telugu from other Universities. Reliance is placed by Ms. Prerna Singh, counsel for the Appellant-State on memo No.18103/Ser.VI-1/2005 dated 03.10.2005 issued by the Government of Andhra Pradesh. The said memo pertains to a qualification issued with regard to transfer of teachers/officers and rationalisation of schools in respect of single subject certificate course of Dr. B.R. Ambedkar Open University. As per para 7 of the said memo, the certificate issued by Dr. B.R. Ambedkar Open University after completion of a single subject course was not a degree and that the single subject certificate holders of Dr. B.R. Ambedkar Open University were not eligible for promotion to the post of School Assistant. As the degree possessed by the Respondent was not equivalent to a degree from the other Universities as prescribed by the Rules, the Counsel for the Appellant-State submitted that the Respondent was not eligible for appointment to the post of Language Pandit (Telugu). Mr. V.V.S. Rao, learned Senior Counsel appearing for the Respondent referred to G.O.Rt.No.556, Education (SE.SER.VII) Department dated 04.10.2005 by which the Government permitted the Director, School Education, Andhra Pradesh, Hyderabad to appoint candidates who have a bachelor's degree and a B.Ed. degree and have acquired a single subject certificate in the relevant subject from Dr. B.R. Ambedkar Open University. The said orders were made applicable for DSC-2003 candidates only. He also referred to a memo dated 24.05.2008 of the Government of Andhra Pradesh by which the Director of School Education, Hyderabad was permitted to appoint selected candidates of DSC-2003 who have acquired single subject (English) certificate for the post of School Assistant (English) as per their merit in the notified vacancies. The learned Senior Counsel submitted that the memo dated 03.10.2005 is not applicable to fresh appointments as it relates to rationalisation of schools and transfer of teachers.

7. We are of the opinion that the judgment of the High Court does not warrant interference. Admittedly, the Respondent possesses BA with History, Economics and Political Science and B.Ed. with Telugu and Social Studies as methodology subjects. He also possesses BA in Telugu literature as a single subject from Dr. B.R. Ambedkar Open University. The question that falls for our consideration is whether the qualification of BA Telugu literature as a single subject from Dr. B.R. Ambedkar Open University can be considered as equivalent to bachelor's degree with Telugu as main subject. We are in agreement with Mr. Rao that the memo dated 03.10.2005 is a clarification pertaining to transfer of teachers/officers and rationalisation of schools. The directions given by the Government to the Director of School Education which are referred to supra would clearly show that the degree issued by Dr. B.R. Ambedkar Open University was considered to be equivalent to any other degree in respect of a selection conducted in the year 2003. If the Government has considered the degree issued by the Dr. B.R. Ambedkar Open University as equivalent to any other degree for DSC- 2003 and permitted appointment of similarly situated persons, there is no reason why the Respondent can be said to be ineligible. There is nothing in the Rules which makes a degree issued

by Dr. B.R. Ambedkar Open University which is recognised by the University Grants Commission (UGC) from being considered as equivalent to any other degree.

8. For the abovementioned reasons, the Appeal is dismissed. No costs.

.....J [S. A. BOBDE] .....J [L. NAGESWARA RAO] New  
Delhi, February 22, 2017