

Supreme Court of India

State Of Rajasthan vs Shri Shyam Lal Joshi And Others on 16 November, 1993

Equivalent citations: AIR 1994 SC 1409, 1994 (68) FLR 77, JT 1993 (6) SC 454, (1994) ILLJ 656 SC, 1993 (4) SCALE 458, (1994) 1 SCC 593, 1993 Supp 3 SCR 682, 1994 (1) SLJ 55 SC

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Bench: M Venkatachaliah, S Agrawal, . A Anand

ORDER S.C. Agarwal, J.

1. Special Leave Petition (Civil) No. 3495 of 1991.

Leave granted.

2. This appeal and the connected Writ Petitions filed under Article 32 of the Constitution relate to appointment on the posts of Primary School Teacher, in the State of Rajasthan.

3. The said post of Primary School Teacher is included in the Rajasthan Education Subordinate Service governed by Rajasthan Education Subordinate Service, Rules, 1971. In the schedule to the said Rules the post the post of Primary School Teacher is placed in Grade-III and the qualifications prescribed for the appointment to said post are :

Secondary with basic School Training Certificate (BSTC) or a training qualification recognised as equivalent to BSTC by State Government.

4. By order dated December 11, 1974, the State Government recognised the Certificates of Industrial Examinations of the Rajasthan Government as equivalent to the Art and Handicraft Examinations of Vidya Bhawan, Udaipur. With regard to recognition of National Trade Certificates (NTC) given by the Industrial Training Institute (ITI) a separate order was passed on November 8, 1979 whereby the State Government gave recognition to such certificates for teaching vocational subjects, viz., Wood Work, Tailoring, Leather Work and Spinning and Weaving in the Secondary Schools. The Director and Special Secretary to the Government of Rajasthan, Rural Development and Panchayati Raj Department, issued a circular dated August 6, 1984 wherein, after referring to the order dated December 11, 1974, it was stated :

...The Handicraft Diploma Certificates of Vidya Bhavan Handicraft Institute, Udaipur has been recognised as equivalent to basic training (BSTC) by the Education Department since the commencement of the training by the Government for appointment and promotion. In this way the industrial Examination of the State Government has also been treated as equivalent to B.S.T.C.

Therefore, those who have got the aforementioned training should also be treated equivalent to B.S.T.C.

5. On January 7, 1985, the Director and Special Secretary to the Government of Rajasthan, Rural Development and Panchayati Raj Department, issued a circular wherein, after referring to the clarification made by the Director, Primary and Secondary Education that "there is difference in the

syllabus of the training of B.S.T.C. and N.T.C.", it was stated :

...N.T.C. has been recognised only to teach the Industry subject and the Government of Rajasthan has given recognition to ITI to teach Industry subject in the Secondary Schools for conferring National Trade Certificates, Hence candidates holding National Trade Certificate are not eligible to the post of Teachers in the Panchayat Samittees....

6. On November 6, 1985 the Director and Special Secretary to the Government of Rajasthan, Rural Development and Panchayat Raj Department issued the following circular :

...All Development Officers Sub : In connection with non-eligibility of National Trade Certificate holding candidates conferred by ITI for appointment to the Post of Teachers in Panchayat Samittees.

It has come to the notice of the State Government that the candidates who have undergone National Trade Certificate training have been appointed to the posts of Teachers in the Panchayat Samittees. In connection with the recognition of National Trade Certificate this Department has issued one Circular No. F. 138 (15-42) VDP/Admn.-III/ Education/81-74 dated 7.1.85 by which it has been made clear that the candidates holding National Trade Certificates are not eligible for appointment to the posts of Teachers in the Panchayat Samittees. In spite of having issued clear cut directions such Diploma Samittees temporarily.

Therefore, it is directed that the services of the temporary teachers holding National Trade Certificates be terminated with immediate effect and this Department be informed.

7. The respondents in the appeal who had filed the writ petition in the High Court (hereinafter referred to as the petitioners) have obtained NTC from the Industrial Training Institute. Their case is that they had taken admission in the NTC Course on the basis of the circular dated August 6, 1984 recognising the National Trade Certificate a equivalent to B.S.T.C. They approached the High Court with the grievance that in spite of their having obtained the NTC they are not being appointed on the post of teachers in the Panchayat Samities and they prayed that the State Government be directed to treat the NTC obtained by the petitioners as equivalent to B.S.T.C. for the purpose of appointment to the post of teachers in the primary schools run by the Panchayat Samities in the State of Rajasthan and for quashing of orders dated January 7, 1985 and November 6, 1985. The said writ petition was allowed by a learned Single Judge by his judgment dated January 12, 1990. The learned Single Judge held that since recognition had been granted to the NTC Course as equivalent to the B.S.T.C. Course and persons acting upon that recognition have taken admission in NTC Course prior to the date of its derecognition, they cannot be deprived from services and that the Government was estopped on the basis of the principle of promissory estoppel to withdraw the recognition of the NTC. The learned Single Judge has directed the appellant to treat the NTC obtained by the petitioners as equivalent to the B.S.T.C. for the purpose of appointment on the post of Teachers in the Primary Schools run by the Panchayat Samities in Rajasthan. The learned Single Judge has, in this connection, placed reliance on the decision of this Court in Suresh Pal and Ors. v. State of Haryana and Ors. . The Special appeal filed by the appellant State against the said decision of the learned

Single Judge was dismissed by the Division Bench of High Court by order dated September 12, 1990. This appeal is directed against the said decision of the Division Bench of the High Court.

8. In the Writ Petitions that have been filed under Article 32 of the Constitution, the petitioners are seeking to claim the same relief as has been granted by the High Court. It may, however, be stated that in some of the Writ petitions there are petitioners who do not have NTC or any other training qualification while in some cases there are petitioners possessing B.Ed. qualifications. Having regard to the submission urged by the learned Counsel for the petitioners the Writ Petitions have been considered only in respect of the petitioners who are having the NTC like the petitioners in the appeal.

9. On behalf of the State it has been pointed out that B.S.T.C. Course is a two years training course covering the following subjects :

1ST YEAR A. Principles of Education and Education in Modern India.

B. Educational Psychology C. Optional Subjects (one of the following)

i) Pre-Primary School Education Training

ii) Population Education Teaching

iii) Informal Education and Adult Education

iv) Education for Children of Special Category D. Mother Tongue - Hindi, Urdu, Sindhi, Gujarati, Punjabi.

E. Mathematics - Subject matter and teaching methodology. F. Environmental Study and teaching methodology. G. Health Education and Physical Education.

H. School Utility and Productive Works/Work Experience and Social Service - Subject matter and teaching methodology.

PRACTICAL PAPERS :

A. Physical Education B. Social Utility and Productive Works C. Art Education D. Moral Education IIND YEAR A. School (Institution) Administration and Health Education.

B. Mother Tongue - Subject matter and teaching methodology (Hindi, Urdu, Sindhi, Gujarati, Punjabi).

C. English : Subject matter and teaching methodology.

D. Third language : Subject matter teaching methodology (Sanskrit Urdu, Sindhi, Gujarati, Punjabi).

E. Mathematics : Subject matter and teaching methodology. F. Social Science : Subject matter and teaching methodology. G. Science : Subject matter and teaching methodology. H. Art: Subject matter and teaching methodology. I. Practical exercise teaching planning (IIInd year). PRACTICAL PAPERS A. Physical Education B. Social Utility and Productive Work C. Art Education D. Moral Education

10. It has also been submitted that students who undergo primary and middle education undertake the study of Hindi, English Mathematics, General Science, Social Science including Geography, Sanskrit, Commerce/Home Science/Drawing, Craft and Physical Training. It has been pointed out that Craft is only one of the various subjects which are taught to the students. It has also been submitted that the NTC is issued after training in a particular craft, namely, the wood work, tailoring leather work and spinning & weaving. It has been urged that NTC has been recognised as equivalent to B.S.T.C for the purpose of appointment of teachers in subjects relating to the craft for which the said certificate is issued. The training imparted for the said certificate is limited to the particular craft and does not cover other fields. The holder NTC does not possess the requisite equipment to teach other subjects and, therefore, he can only be appointed as craft teacher and cannot be appointed as a general teacher. Reliance has been placed on the order of the State Government dated November 8, 1979 relating to recognition of NTC and it has been urged that the Circular dated August 6, 1984 does not in any way modify the limited nature of recognition granted to NTC in order dated November 8, 1979 and that the circulars dated January 7, 1985 and November 6, 1985 only clarify the position.

11. In our opinion, these contentions urged on behalf of the State must be accepted. A distinction has to be drawn between a general teacher who has received complete training and is in a position to teach all the subjects and a teacher who has received training in a particular craft and can, therefore, properly teach that particular craft only. Under the relevant Rules for appointment on the post of Primary School Teacher it is necessary to have B.S.T.C or a training qualification recognised as equivalent to B.S.T.C. by the State Government. The B.S.T.C Course is a two years training course wherein the training is given in various subjects. The NTC is granted by the ITI after a course of training in a particular craft. By order dated November 8, 1979, the State Government recognised the NTC given by ITI for teaching vocational subjects in Secondary Schools in certain specified crafts, namely, wood work, tailoring, leather work and spinning & weaving. This recognition is limited to teaching the aforesaid vocational subjects only. In the circular dated August 6, 1984, reference has been made to the order dated December 11, 1974, whereby certificates of Industrial Examinations of the Rajasthan Government were recognised as equivalent to Arts and Handicraft Examinations of Vidya Bhawan, Udaipur, and it was directed that since the Handicraft Diploma Certificates of Vidya Bhawan have been recognised as equivalent to basic training (B.S.T.C.) by the Education Department; the Industrial Examination of the State Government has also been treated as equivalent to B.S.T.C The said circular does not run counter to the limited nature of recognition granted to NTC by order dated November 8, 1979. This was clarified by circular dated January 7, 1985 wherein it has been stated that the NTC has been given recognition to teach Industrial subject in the secondary schools for conferring NTC and that candidates holding NTC are not eligible for the post of teachers in the Panchayat Samities. The last circular dated November 6, 1985 only gives effect to the directions contained in the earlier circular dated January 7, 1985. It would thus appear

that limited recognition was given to NTC by order dated November 8, 1979 in the matter of teaching vocational subjects of the certificate and the subsequent circulars dated August, 6, 1984, January 7, 1985 and November 6, 1985 do not detract from that position. The circular dated August 6, 1984 cannot be construed as giving a fresh recognition to NTC and, therefore, the question of withdrawal of recognition granted earlier by the subsequent circulars dated January 7, 1985 and November 6, 1985 does not arise. The principle of promissory estoppel is not attracted and the decision of this Court in *Suresh Pal and Ors. v. State of Haryana and Ors.*, (supra), on which reliance has been placed by the High Court, also has no application.

12. In view of the limited recognition that has been granted to NTCs the holders of NTCs cannot claim appointment as general Teachers and can only be appointed on the post of craft teachers in the craft for which they hold the NTC. For teaching subjects other than the craft for which they hold the NTC the position of the holder of NTC is no different from that of an untrained teacher. The need for appointment of properly trained teachers has been emphasised by this Court in *Andhra Kesari Educational Society v. Director of School Education and Ors.* [1988] Supp 3 SCR 893, wherein it has been observed :

...It is, therefore, needless to state that subjected to teachers should be subjected to rigorous training with rigid scrutiny of efficiency. It has greater relevance to the needs of the day. The ill trained or sub-standard teachers would be detrimental to our educational system; if not a punishment on our children.

13. In the context of appointment of primary School teachers this Court in *Ram Sukh v. State of Rajasthan*, [1989] Suppl. II SCC 189, has laid down:

...We are not less sympathetic to the petitioners who are out of job but we cannot forget the welfare of those who are not before the court. They are the tiny tots who require proper handling by well trained teachers.

...The primary school teachers are of utmost importance in developing a child's personality in the formative years. It is not just enough to teach the child alphabets and figures, but much more is required to understand child psychology and aptitudes. They need a different approach altogether. Only trained teachers could lead them properly. The untrained teachers can never be proper substitute to trained teachers.

14. The Judgment of the High Court cannot, therefore, be sustained and must be set aside and the Writ Petition filed by the petitioners in High Court is disposed with the direction that the petitioners, as holders of NTC, are eligible for appointment to the post of Craft Teacher in the Craft for which they hold the NTC and they can be appointed as general teacher only after they have secured the prescribed training qualification under the relevant rules.

15 Similarly by in the Writ Petitions that have been filed under Article 32 of the Constitution, the only relief that can be granted to the petitioners who hold NTC is that they are eligible for appointment to the post of Craft Teacher in the craft for which they hold such certificate and they

can be appointed as general teachers only after they have secured the prescribed training qualification under the relevant rules.

16. It is, however, made clear that in the event of the Petitioners in the Writ Petitions filed in this Court as well as the Petitioners in the Writ Petition filed in High Court obtaining the necessary training qualification prescribed under the Rules, they become entitled to be considered for appointment to the post of general teachers and if they apply 'for such appointment the restriction regarding the maximum age for such appointment may be relaxed provided they obtain the necessary training qualification within a period of three years from the date of this judgment.

17. The appeal is, accordingly, allowed, the judgment and order of learned Single Judge of the Rajasthan High Court dated January 12, 1990 as well as the order dated September 12, 1990 passed by the Division Bench of said High Court are set aside and the Civil Writ Petition No. 1614 of 1990 filed in the High Court of Rajasthan as well as the Writ Petitions filed under Article 32 of the Constitution in this Court are disposed of in the light of the directions aforementioned. No order as to costs.