

W.P.Nos.4595/2016, 4612/2016, 4642/2016, 4751/2016, 4855/2016, 4871/2016, 4945/2016, 4964/2016, 4982/2016, 4992/2016, 4994/2016, 4995/2016, 4996/2016, 5315/2016, 5504/2016, 5578/2016, 5707/2016, 5739/2016, 5745/2016, 5801/2016, 5852/2016, 5859/2016, 5860/2016, 5896/2016, 5907/2016, 5951/2016, 5952/2016, 5963/2016, 5967/2016, 5970/2016, 5978/2016, 5980/2016, 6006/2016, 6008/2016, 6009/2016, 6010/2016, 6011/2016, 6016/2016, 6017/2016, 6037/2016, 6095/2016, 6107/2016, 6109/2016, 6135/2016, 6173/2016, 6183/2016, 6217/2016, 6221/2016, 6231/2016, 6261/2016, 6327/2016, 6330/2016, 6367/2016, 6368/2016, 6385/2016, 6454/2016, 6559/2016, 6561/2016, 6840/2016, 6854/2016, 6991/2016, 6994/2016, 6997/2016, 7000/2016, 7064/2016, 7077/2016, 7146/2016, 7266/2016, 7326/2016, 7330/2016, 7333/2016 & W.P.No.7198/2016

26.04.2016

Petitioners through their respective counsel.

Shri Bramhadatt Singh, Govt. Advocate for the respondents/State.

Smt. Nirmala Nayak, Advocate for the U.G.C.

Shri Prashant Singh with Shri Manas Verma, Advocates for the M.P. Public Service Commission.

W.P. No.4595/2016, 4751/2016, 4871/2016, 4945/2016, 4964/2016, 4994/2016, 4995/2016, 4996/2016, 5315/2016, 5504/2016, 5707/2016 and 5739/2016

List these matters tomorrow (27.04.2016), as requested by the petitioners, as they would like to amend the petition to explore possibility to challenge the validity

of proviso below Rule 4 of the Rules of 1997.

W.P. Nos.4642/2016, 4982/2016, 4992/2016, 5578/2016, 5745/2016

Counsel for the petitioners seek permission to amend the writ petitions.

List tomorrow (27.04.2016).

W.P. No.4612/2016

Counsel for the petitioner submits that he may be permitted to challenge the advertisement pursuant to which he intends to apply for the post of Assistant Professor (Geography) mandating production of mark-sheet of M.A. (Final).

List tomorrow (27.04.2016).

W.P. No.4855/2016

Having realised the difficulties that would be faced by the petitioner in view of the limited relief claimed in the writ petition, counsel for the petitioner prays for time to examine: whether it would be necessary to challenge the relevant Rules.

We place on record that the decision in the case of **Sanjay Singh Baghel vs. State of M.P.** decided on

22.09.2008 in W.P. No.2249/2008 and connected matters will be of no avail to the petitioner. In that case, there was no issue about the previous selection process having been cancelled and new selection process commenced, as can be discerned from para 10 of the said judgment. The Court merely considered the question about the rights available to the writ petitioners before it by virtue of earlier process initiated and remained incomplete because of the stay order passed by the State Administrative Tribunal. Even the decision of the Supreme Court in the case of **Richa Mishra vs. State of Chhattisgarh and others** in Civil Appeal No.274/2016 (2016 SCC Online SC 124) decided on February 8, 2016 will be of no avail to the petitioners. In that petition the recruitment process was commenced by issuance of the advertisement notifying that the same would proceed on the basis of Rules of 2000. Although the advertisement was issued after 2005 Rules came into force and applicable to that case, the Authorities had proceeded with the selection process on the basis of Rules of 2000. In the context of that action the Supreme Court considered the matter as can be discerned from paragraph 20 onwards of the decision in **Richa Mishra** (supra).

After the amendment is carried out by the writ

petitioner, we may consider all aspects of the matter in detail.

List tomorrow (27.04.2016).

W.P. No.5801/2016

Shri Manish Verma, Advocate for the petitioner.

Shri Bramhadatt Singh, Govt. Advocate for the respondents/State.

Smt. Nirmala Nayak, Advocate for the U.G.C.

Shri Prashant Singh with Shri Manas Verma, Advocates for the M.P. Public Service Commission.

Heard counsel for the parties on admission.

The principal grievance in this petition is that although the petitioner possesses certificate issued by the Council of Scientific & Industrial Research that she has been declared successful in the examination conducted on 22.12.2013 in the subject of Life Sciences, application submitted by the petitioner as against the post of Botany Science is not entertained by the Authority. The petitioner relies on the chart included in the advertisement, which reads thus:-

“टीप:- कुछ विषयों हेतु मान्य UGC NET/SLET विषयों की जानकारी

(उच्च शिक्षा विभाग, मध्य प्रदेश शासन के आदेश क्रमांक एफ 1-118/2012/38-1 यथा संशोधित समसंख्यक आदेश दिनांक 02.07.2014)

क्र.	विषय	मान्य विषय	पात्रता परीक्षा
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1	भौतिक शास्त्र	Physical Sciences	CSIR UGC NET
2	रसायन शास्त्र	Chemical Sciences	CSIR UGC NET
3	प्राणी शास्त्र	Life Sciences	CSIR UGC NET
4	वनस्पति शास्त्र	Life Sciences	CSIR UGC NET
5	सैन्य विज्ञान	Defence and Strategic Studies	UGC NET
6	गणित	Mathematical Sciences	CSIR UGC NET
7	भू-गर्भ शास्त्र	Earth Sciences	CSIR UGC NET
8	नृत्य	Performing Arts-Dance, Drama Theater	UGC NET

Relying on column 4 of the Chart it is submitted that Botany Science and Life Sciences are equivalent subjects as has been recognised by the U.G.C.

We are not inclined to accept this submission. From the chart itself it is amply clear that it makes distinction between the subject and the recognised subject. It is incomprehensible that Zoology (*Prani Shastra*) can be equated with Life Science subject mentioned in Column No.3 of the same chart. That is the argument of the petitioner before us which cannot be, therefore, countenanced. The fact that Botany is part of or one of the subject of Life Sciences does not mean that it is a specialized qualification for being appointed as Assistant Professor against the post of Botany Science. For that, counsel for the respondent-State has rightly invited our

attention to Regulation of 2010, in particular clause 4.4.0 which reads thus:-

“4.4.0 ASSISTANT PROFESSOR

4.4.1. Arts, Humanities, Sciences, Social Sciences, Commerce, Education, Languages, Law, Journalism and Mass Communication.

- i. Good academic record as defined by the concerned university 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 a relevant subject from an Indian 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. Notwithstanding anything contained in sub-clauses (i) and (ii) to this Clause 4.4.1, 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 or equivalent positions in Universities/ Colleges/Institutions.

- iv. NET/SLET/SET shall also not be required for such Master's Programmes in disciplines for which NET/SLET/SET is not conducted.”

(emphasis supplied)

It is not in dispute that petitioner possesses qualification of Master's degree level in Genetics subject. That will be of no avail to the petitioner since the post to be filled is of subject Botany Science for which Master's degree qualification must be in subject Botany itself. That is what clause 4.4.1(i) predicates. It postulates that the candidate must possess the Master's degree level qualification in a relevant subject from an Indian University, or an equivalent degree from an accredited foreign University.

Counsel for the petitioner has placed reliance on the notification issued by the State Government dated 02.07.2014. That document is not the part of the record, in the present writ petition. In any case, this notification, in our opinion, will be of no avail to the petitioner. So long as the petitioner is in a position to demonstrate that the petitioner possesses a Master's degree qualification or for that matter, qualification above that degree in the subject Botany, no other argument will be of any avail to the

petitioner. Hence, this petition must fail and the same deserves to be rejected. It would be a different matter if the petitioner was able to substantiate the argument that Life Sciences degree possessed by petitioner is equivalent to Master's degree in subject Botany as such. The Regulation or Notification issued by U.G.C. in this behalf is not forthcoming, which being an expert statutory Authority has the prerogative to issue declaration regarding equivalence of degrees/subjects.

Taking any view of the matter, therefore, this petition must fail and the same is **dismissed**. Interim relief if any, is vacated forthwith.

W.P. No.7064/2016

Shri Akhil Singh, Advocate for the petitioner.

Shri Bramhadatt Singh, Govt. Advocate for the respondents/State.

Smt. Nirmala Nayak, Advocate for the U.G.C.

Shri Prashant Singh with Shri Manas Verma, Advocates for the M.P. Public Service Commission.

Heard counsel for the parties on admission.

Even in this petition, petitioner Nos.1 and 2 possess Ph.D. qualification in subject Economics, whereas petitioner No.3 is having NET qualification in subject Biochemistry. The petitioner Nos.1 and 2 intended to apply

for the post of Assistant Professor in subject Economics. The argument is: that since they possess Ph.D. qualification in Economics, the fact that they did not possess Master's degree in Economics must be overlooked.

The argument though attractive at the first blush deserves to be stated to be rejected. The requirement under Regulation 4.4.1 postulates that the candidate must possess the Master's degree in the relevant subject. It further postulates that the candidates possessing Ph.D. degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009 alone shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions.

Admittedly, petitioner Nos.1 and 2 have not been awarded Ph.D. in accordance with the Regulation of 2009. This position is fairly accepted by the counsel for the said petitioners. Thus, neither the qualification of Master's degree in Business Administration possessed by these petitioners or for that matter, said Ph.D. in Economics will be of any avail to the petitioner Nos.1 and 2 respectively,

not being eligible to apply. Therefore, applications have been rightly discarded and rejected by the Authorities. No relief can be granted to these petitioners.

Reverting to petitioner No.3 she possesses NET qualification in subject Plant Biochemistry, but, intends to apply to be appointed against the post of Assistant Professor for subject Chemistry. Even this petitioner (petitioner No.3) does not possess necessary qualification postulated in Regulations, 2009, namely, Master's degree level qualification in the relevant subject i.e. Chemistry. Hence, even this petitioner must fail.

Accordingly, this petition is **dismissed**. Interim relief if any, is vacated forthwith.

Rest of the matters will continue tomorrow (27.04.2016). To be taken **first on Board**.

W.P. No.6481/2016 and W.P. No.7456/2016

1. Not on Board; taken up upon mentioning by counsel for the petitioners.

To be also listed tomorrow (27.04.2016) **along with W.P. No.4595/2016** and companion matters.

(A. M. Khanwilkar)
Chief Justice

(J.P.Gupta)
Judge