

**HIGH COURT OF MADHYA PRADESH**  
**W.P. No.14864/2020**  
*(RAM AVATAR GAUR AND OTHERS Vs THE STATE OF MADHYA PRADESH AND OTHERS)*

**Gwalior, dated: 06.10.2020**

None for the petitioners even in the second round.

Shri Abhishek Mishra, Panel Lawyer for the respondents/State.

Heard through Video Conferencing.

This petition under Article 226 of the Constitution of India has been filed seeking following relief:-

- “7.1 That, the respondents authority may kindly be directed to decide the representation of petitioner in view of the granted the appointment to the similar situated person namely Gaurav Sikarwar, Mahesh Singh Chauhan, Rajveer Singh Chauhan and Surya Pratap Singh, Ran Vijay Singh & Ashok Kumar Goyal consider the case of petitioners.
- 7.2 That, the respondents may kindly be directed to consider the case of the petitioners and decide the representation of petitioners.
- 7.3 That, any other relief which deemed fit by this Hon'ble Court in the fact and circumstances of the case.
- 7.4 That, the other relief doing justice including cost be awarded.”

The petitioners have filed a copy of order dated 16.12.2019 passed in W.P. No.15096/2019, order dated 20.07.2018 passed in W.P. No.7372/2018 and order dated 20.02.2019 passed in W.P. No.3473/2019 to plead that in identical writ petitions this Court has directed the respondents to consider the representations of the petitioners for their appointment on the post of Samvida Shala

Shikshak Grade-III.

The Counsel for the petitioner did not join the hearing for the obvious reason, that he has filed the present petition by suppressing material facts.

This petition depicts a very sorry state of affairs.

This Court has already dismissed an identical writ petition by **order dated 02.12.2019** passed in the case of **Shyam Singh Vs. The State of M.P. and others [W.P. No.22524/2019] [Gwalior Bench]** and held as under :

It is submitted by the Counsel for the petitioner, that he had appeared in the recruitment process held in the year 2011 for the post of Samvida Shala Shikshak. The minimum qualification was D.Ed. and the petitioner has passed D.Ed. From Bhartiya Shiksha Praishad, Utter Pradesh. However, the respondents are not considering the said qualification and have not given appointment to the petitioner. It is further submitted that the case of the petitioner is covered by the orders dated 20-2-2019 passed in W.P. No. 3473/2019 and order dated 20-7-2018 passed in W.P. No. 7372 of 2018.

Considered the submissions made by the Counsel for the petitioner.

It is not the case of the petitioner that he is already working on the post of Samvida Shala Shikshak Grade 1. It is not the case of the petitioner, that D.Ed. Passed from Bhartiya Shiksha Parishad, Utter Pradesh is a recognized Diploma. The orders passed in W.P. No. 20-2-2019 and 3473 of 2019 are distinguishable. Those orders are based on the order dated 10-11- 2016 passed in W.P. No. 2824/2016 and an opportunity was granted to the teachers to obtain B.Ed. Degree who were already working.

Thus, this Court is of the view that the order dated 10-11- 2016 passed in W.P. No. 2824 of 2016 is distinguishable on facts and does not apply to the facts of the case.

As the D.Ed. obtained from Bhartiya Shiksha

Parishad, Utter Pradesh is not recognized, therefore, the respondents did not commit any mistake in rejecting the claim of the petitioner. So far as the appointment granted to other persons is concerned, the principle of Negative Equality, does not apply. Further more, the petitioner had appeared in the year 2011 and more than 8 years have passed. The petitioner has not explained the delay in filing the petition. Accordingly the petition is also **dismissed on the ground of delay and laches.**

Against the aforementioned order passed by the Single Judge, a Writ Appeal was filed which was registered as **W.A. No. 2096 of 2019 [Gwalior Bench]**. The said Writ Appeal was dismissed by order dated **13-1-2020**, which reads as under :

Shri Girija Shankar Sharma, learned counsel for the petitioner.  
Shri Ankur Mody, learned Additional. Advocate General for the respondents/State.

This intra court appeal assails the final order passed by learned Single Judge dismissing the petition in question on the ground of delay and latches as the petitioner was seeking a direction for appointment arising out of Samvida Shala Shikshak Eligibility Examination conducted in 2011.

Learned counsel for the petitioner has annexed Madhya Pradesh Panchayat Samvida Shala Shikshak (Employment and Conditions of Contract) Rules, 2005 (herein after referred to as the 2005 Rules) wherein a relevant Rule 6(2) provides thus:-

"6(2) 'Samvida Shala Shikshak Eligibility Examination', hereinafter called 'Eligibility Examination' as prescribed, shall be conducted for the employment of Samvida Shala Shikshak. The eligibility examination shall be conducted by an agency prescribed by the Government".

Pertinently the aforesaid provision underwent amendment. However, the appellant has filed unamended rules which were amended w.e.f. 27.6.2011 and thereafter took the following shape:-

"6(2) 'Samvida Shala Shikshak Eligibility Examination', hereinafter referred to as 'Eligibility Examination', as prescribed shall be conducted for the employment of Samvida Shala Shikshak. the eligibility examination shall be conducted by an agency prescribed by the Government. The validity of the eligibility examination shall be for two years after declaration of result or next eligibility examination to be held, which will be earlier".

From the above it is evident that any eligibility examination

conducted under the said rules is valid for a period of two years or till the next eligibility examination held whichever is earlier.

There is nothing on record to indicate that next eligibility examination was held prior to two years after 2011 and therefore, validity of the eligibility examination of 2011 expired in 2013. Thereafter, no right can emanate from the said list to the petitioner and, therefore, no fault can be found in the order of the Single Judge.

Consequently, W.A. stands dismissed.

It is not out of place to mention here that Shri G.S. Sharma, Advocate had appeared in W.P. No. 22524 of 2019 and W.A. No. 2096 of 2019.

Unfortunately, Shri G.S. Sharma, Advocate, has suppressed both the orders and has tried to obtain a favorable order by projecting that in identical matters, the respondents have been directed to decide the representation. It also appears that while arguing W.P. No. 15096/2019, Shri G.S. Sharma, did not bring the order dated 2-12-2019 passed in W.P. No. 22524/219 to the knowledge of co-ordinate Bench and thus obtained the order dated 16-12-2019 by playing fraud on the Court. Further, copy of unamended Rules were filed in the Writ Appeal. Now once again, an attempt has been made to play fraud on the Court.

This Conduct of Shri G.S. Sharma, cannot be appreciated at all and he must realize the duties which are attached to the office of an Advocate, being the officer of this Court. A lawyer must not try to play fraud on the Court, by suppressing material facts. Unfortunately, Shri G.S. Sharma, did not adopt a healthy practice which is highly **condemnable**.

In the present case also, the petitioners had appeared in the Samvida Shala Shikshak Grade III examination conducted by the respondents in the year 2011. The petitioners are also holding the D.Ed. Course from Bhartiya Shiksha Parishad, Uttar Pradesh. The degree obtained by the Petitioners is not recognized. The case of the Petitioners is identical to the case of the petitioner in W.P. No. 22524 of 2019. Accordingly, the petitioner should have disclosed the factum of dismissal of W.A. No. 2096 of 2019, but Shri G.S. Sharma, Advocate has not acted as an officer of the Court.

**Although the conduct of Shri G.S. Sharma, Advocate falls within the parameters of Contempt of Court, but instead of initiating proceedings for Contempt of Court, this Court thinks it appropriate to issue a warning to Shri G.S. Sharma, Advocate, that he should not indulge in such dreadful tactics.**

Accordingly, this petition is **dismissed** with cost of Rs. 20,000/- to be deposited in the Registry of this Court, within a period of two weeks from today.

The Principal Registrar, M.P. High Court, Gwalior Bench, is requested to send a copy of this order to all the Hon'ble Judges sitting in Gwalior Bench, for their information.

**(G.S. Ahluwalia)**  
**Judge**