



IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT

ON THE 31st OF OCTOBER, 2025

WRIT PETITION No. 901 of 2020

KARTAR SINGH BADRETIYA AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Shivendra Singh Raghuvanshi - Advocate for petitioners.

Shri Yogesh Parashar- Government Advocate for respondent/State.

ORDER

This petition, under Article 226 of Constitution of India, has been filed seeking the following relief (s):

“(i) That, the impugned order Annexure P/1 dated 15.11.2019 passed by the respondent no. 2 be quashed.

(ii) That, the respondents be directed to extend the benefit of Adhyapak Samvarg as per Rules 2008 or grant regular appointment of teacher as per creation of post vide letter dated 27-9-2018 without clearing the eligibility test as per amended provisions of Act 1994 or special provision of Contract Teacher Rules 2005 with all consequential benefits.



(iii) That, the other relief doing justice including cost be awarded.”

2. Learned counsel for petitioners submits that petitioners were holding the post of Samvida Shala Teacher (Language) Verg-III and posted in various Govt. institutions of Gwalior, District Gwalior. Initially, petitioners had been appointed on the post of Samvida Shala Shikshak (Language) Verg-III in the Tribal Welfare Department by the competent authority after following due process of law under the provisions of Madhya Pradesh Panchayat Samvida Shala Shikshak (Employment And Conditions Of Contract) Rules, 2005 (for brevity “Rules, 2005”). It is submitted that for the purpose of providing educational facilities to Schedule Tribe community (Sahariya Caste) the State Govt. took a decision and initiated special recruitment process for appointment of the teachers of the same community under the conservation-cum-development scheme and under the provisions of Rules, 2005 and after following the due process of law, petitioners were appointed. Learned counsel for petitioners further submitted that aforesaid Scheme was launched in 15 districts of the State of M.P. where the people of said community were residing. The said scheme along with services was further extended in the 12th five year plan 2012-17. As per the appointment order, it has been mentioned that services of petitioners in the Panchayat department are duly governed under the Rules, 2005. Initially, the appointment of petitioners was made on contract basis and thereafter their appointment was extended from time to time. Petitioners after due permission from the department completed two years' course of D.Ed. and their cases were sent for appointment on the post of “Sahayak Adhyapak” under Madhya Pradesh Panchayat Adhyapak Samvarg (Employment And Conditions of Services), Rules 2008 (for brevity “Rules, 2008).



3. Learned counsel for petitioners further submits that the State Govt. in the interest of the employees and for granting better facilities in exercise of the powers conferred by Sub-section 1 of Section 95 read with Sub-section 2 of Section 70 of the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam 1993 made the Rules called M.P. Panchayat Adhyapak Samvarg (Employment & Conditions of Services), Rules 2008.

4. Rule 5 of Rules, 2008 relates to the selection and method of appointment of Adhyapak Samvarg after commencement of these Rules. Sub-section 1 of Section 5 of the Rules, 2008 relates by merger of the Shiksha Karmis appointed under the Madhya Pradesh Panchayat Shiksha Karmi (Recruitment & Conditions of Service) Rules, 1997. Sub-section 2 of Section 5 relates to the Samvida Shala Shikshak. The Samvida Shala Shikshak shall be appointed on the relevant post of Adhyapak Samvarg with some conditions and the Authority rightly sent the matter of petitioners for the said purpose however respondent no.2 without considering the provisions of Rules, 2005 and Rules, 2008 rejected the claim of petitioners on the basis of Madhya Pradesh Tribes and Scheduled Castes Teaching Cadre (Service and Recruitment) Rules, 2018 (for brevity "Rules, 2018"). Learned counsel for petitioners further submits that earlier also the services of some of the similarly situated persons to petitioners were discontinued relying upon irrelevant material and finally the Court set aside the impugned orders with all consequential benefits which duly attained finality after confirmation in review petition as well as writ appeals and in contempt proceedings the authorities themselves submitted documents of creation of posts and stated on oath for compliance of verdict in letter & spirit and after disposal of such contempt petition the respondents rejected case of petitioners for



regularization or appointment on such regular created posts. Learned counsel further submitted that similarly situated persons in Sheopur district have already been granted the benefit of Rules, 2005 and Rules 2008 and services of similarly situated persons of district Sheopur were merged in Adhyapak cadre by order dated 23.10.2015 (Annexure P-9 in WP.15968 of 2023).

5. Learned counsel for petitioners further submitted that services of one Pradeep Singh Aadiwasi who belonged to Sahariya Aadiwasi community and resident of District Shivpuri were removed by Chief Executive Officer, Janpad Panchayat, Shivpuri stating that he did not pass T.E.T. examination i.e. Teachers Eligibility Test. Against the termination order, he preferred WP. No.6933/2016 which has been disposed of by order dated 04.04.2018. Relevant part of order dated 04.04.2018 passed in WP. No.6933/2016 by the co-ordinate Bench of this Court reads as under:-

“This petition has been filed by the petitioners who belong to Sahariya Aadiwasi Community and are resident of District Shivpuri challenging the impugned order Annexure P/1 vide which Chief Executive Officer, Janpad Panchayat, Shivpuri, has passed orders of removing the petitioners from the post of Samvida Shala Shikshak, Grade III on the ground that they did not pass T.E.T. examination i.e. Teachers Eligibility Test and, therefore, their appointment was not in terms and conditions with the provisions contained in M.P. Panchayat Samvida Shala Shikshak(Employment and conditions of Contract) Rules, 2005.

It is petitioners' contention that initially petitioners were appointed in the year 2009. Thereafter, their services were terminated and they have challenged such orders of termination through Writ Petition No.983/2015 (S). This writ petition was allowed by a coordinate Bench of this Court vide order dated 24.07.2015 quashing the impugned orders and directing the respondents to pay the salary and other benefits to the petitioners,



as if the impugned orders of termination were never passed. Thereafter, after a long correspondence, petitioners were again given appointment vide order dated 31.12.2015 passed by Chief Executive Officer, Janpand Panchayat, Shivpuri, on the basis of the recommendation of the District Collector and also the fact that they were possessing necessary qualifications prescribed under the Rules and were also having D.Ed. qualification. Thereafter, impugned order Annexure P/1 has been passed on receiving instructions from District Education Officer that since petitioners had not passed T.E.T. examination, therefore their appointment was illegal.

Learned counsel for the petitioners has taken this Court through Rules of 2005 which provides selection and method of employment and it is mentioned that the employment of Samvida Shala Shishak after examination of this rules shall be done in accordance with the provisions of these rules. Sub Rule 2 of Rule 6 Samvida Shala Shikshak, prescribes eligibility examination to be conducted for the employment of Samvida Shala Shikshak. The eligibility examination shall be for two years after declaration of result or next eligibility examination to be held which will be earlier. However, he submits that there is Rule 7 which makes Special Provisions for Primitive Tribes of certain districts, which includes district of Shivpuri. Therefore, petitioners were not required to even pass T.E.T. examination and on this touch stone also blanket order of removal cannot be passed.

Learned Govt. Advocate, Shri Praveen Newaskar fairly states that in regard to Rule 7 of Rules of 2005, since there are special provisions, the impugned order is illegal and arbitrary. Even otherwise, when petitioners possess minimum educational qualification then their appointment could not have been challenged on the basis of some blanket instructions received from the office of Advocate General of Gwalior. There is no mention of the person who issued such instructions and whether such instructions were verified by way of follow up or not.

However, in the light of the fair admission made by the learned Govt. Advocate and also after going through the provisions contained in Rule 6 and Rule 7 of 2005 Rules, this Court is of the opinion that the appointment of the petitioners



having been made under the Special Provision for Primitive Tribes under Rule 7 are not subject to passing of Teachers Eligibility Test as prescribed under Rule 6 and, therefore, the impugned order deserves to be quashed and is hereby quashed. It is directed that now the petitioners shall be treated to be in service for all purposes and shall be paid remuneration within 30 days of receipt of certified copy of the order.”

6. Learned counsel for petitioners further submitted that in the aforesaid order it has already been considered that appointment of petitioners therein having been made under the Special Provision for Primitive Tribes under Rule 7 are not subject to passing of Teachers Eligibility Test as prescribed under Rule 6. Learned counsel for petitioners further submitted that as the services of similarly situated persons of Sheopur district and other districts have already been absorbed and their cases have timely been considered by respondents and after considering their cases order dated 23.10.2015 had been issued with respect to similarly situated persons of Sheopur district, authorities ought to have considered the case of present petitioners too.

7. Learned counsel for petitioners further submitted that if respondents had considered the case of present petitioners when they considered the cases of similarly situated persons then petitioners' services could have been absorbed but respondents did not consider the case of petitioners without any basis and for such delay, petitioners cannot be held to be responsible and due to aforesaid delay Rules, 2018 came into force with effect from 01.07.2018. Learned counsel for petitioners further submitted that once the similarly situated persons have already been extended the benefit, petitioners are also entitled to the same benefit. Learned counsel for petitioners further submitted that as per Rules, 2005, petitioners are having the qualification for appointment as Samvida Shala



Shikshak Verg-III. Learned counsel for petitioners further submitted that as per Rules, 2008 petitioners possess the necessary qualification of Higher Secondary Certificate Examination or equivalent and B.T.C./D.Ed./D.S.E. for the post of Sahayak Adhyapak. Learned counsel for petitioners further submitted that as petitioners were initially appointed in the year 2008-2010, therefore, Rules, 2018 would not be applicable on them as the Rules, 2018 are applicable for direct recruitment and as the petitioners were already in service and had initially been appointed in the year 2008-2010, Rules, 2018 would not be applicable on petitioners.

8. *Per contra*, it is submitted by learned counsel for the respondent/State that as per Rules, 2018 candidate has to pass Teacher Eligibility Test. It is further submitted by him that services of petitioners are governed by Rules, 2018 and according to Rule 8.3 and 11 of Rules, 2018, the teacher has to pass the teacher eligibility test. As per letter dated 01.05.2019 issued by the Commissioner/Assistant Director, Special Backward Tribes, Madhya Pradesh, Bhopal, the linguistic teacher appointed under the scheme of CCD also has to pass the teacher eligibility test for appointment in the teacher cadre under the Rules, 2018. Learned counsel for respondents further submitted that linguistic teacher can only be given relaxation in the process of appointment but they can not be given relaxation in essential minimum qualification for the post of teacher. Learned counsel for respondents further submitted that petitioners have not passed the Teacher Eligibility Test which is the minimum essential qualification for a linguistic teacher post as per Rules, 2018 and number of persons who possessed the qualification pertaining to Teacher Eligibility Test have been sent to the education department for considering their names for absorption. Learned



counsel for respondents further submitted that the respondents have removed other linguistic teachers including petitioners who have not passed the Teacher Eligibility Test as per Rules, 2018. Lastly, learned counsel for respondents submitted that since petitioners have not been in service since January, 2023 so they are not being given salary.

9. Heard learned counsel for the parties and perused the record.

10. Vide order dated 04.04.2018 passed in Writ Petition No.6933/2016, co-ordinate Bench of this Court has already considered that qualification of Teacher Eligibility Test examination with respect to similarly situated persons is not the essential qualification as petitioners in that case had been appointed under the special provision for primitive tribes under Rule 7 who are not subject to passing of Teachers Eligibility Test as prescribed under Rule 6 and the co-ordinate Bench has already quashed the removal order of similarly situated persons. Petitioners have already pleaded in their petition that similarly situated persons in Sheopur District have already been given the benefit and the same benefit has not been extended to petitioners. The said fact has not been denied by respondents in their return. Even they have not stated that the benefit to similarly situated persons at Sheopur had wrongly been given. The case of petitioners had not been considered by respondents whereas the case of similarly situated persons at Sheopur District has been considered and due to this fault of respondents petitioners cannot be held responsible and made to suffer. If respondents had considered the case of present petitioners when they considered the cases of similarly situated persons then petitioners' services could have been absorbed but respondents did not consider the case of petitioners without any basis and for



such delay, petitioners cannot be held to be responsible and due to aforesaid delay Rules, 2018 came into force with effect from 01.07.2018.

11. Taking into consideration the fact that similarly situated persons in Sheopur District have already been extended the benefit having considered their case by order dated 23.10.2015 (Annexure P-9 in WP.15968/2023) and also considering the order dated 04.04.2018 passed by the co-ordinate Bench of this Court in WP. No.6933/2016, respondents cannot discriminate petitioners in the following manner by impugned order dated 15.11.2019, relevant part of which is quoted below:

“10. भाषाई शिक्षकों की सेवा समाप्ति उपरांत भाषाई शिक्षकों द्वारा प्रस्तुत न्यायालयीन याचिका क्रमांक/937/2015 में जारी न्यायालयीन आदेश दिनांक 24.07.2015 के परिपालन में न्यायालय की अवमानना की स्थिति निर्मित होने के कारण कुछ जिलों द्वारा अवमानना से राहत हेतु शीघ्रतावश अस्थायी तौर पर पुनः सेवा में लेने का निर्णय लिया गया परन्तु यह नियमानुसार नहीं है क्योंकि शिक्षकों को सेवा में भर्ती की जाने की प्रक्रिया “मध्यप्रदेश जनजातीय एवं अनुसूचित जाति शिक्षण संवर्ग (सेवा एवं भर्ती नियम 2018) शिक्षा अधिनियम मध्यप्रदेश के राज पत्र दिनांक 08.08.2018 को प्रकाशित सूचना अनुसार अधिनियम की कण्डिका क्रमांक 8.3 एवं 11 के तहत होगी।” अर्थात् शिक्षकों को शिक्षक पात्रता परीक्षा उत्तीर्ण करना अनिवार्य होगा।

11. भाषाई शिक्षकों के द्वारा विभिन्न याचिकाएं न्यायालय में प्रस्तुत किये जाने एवं नियमित सेवाओं की मांग को दृष्टिगत रखते हुये भाषाई शिक्षकों के अस्थायी पदों के लिये मध्यप्रदेश शासन के आदेश क्रमांक एफ 4-50/2018/23-1 राज्य शासन एतद् द्वारा विशेष पिछड़ी जनजाति समूह हेतु 286 भाषाई शिक्षकों के प्राथमिक शिक्षक के नवीन पद वेतनमान 5200-20200-2400 ग्रेड पे में सृजित कर दिये गये हैं।

12. भाषाई शिक्षकों के सृजित नवीन 286 पदों के विरुद्ध नियुक्ति हेतु शिक्षकों के लिये अनिवार्य अर्हता शिक्षक पात्रता परीक्षा उत्तीर्ण किये जाने के निर्देश कार्यालयीन पत्र क्रमांक पीव्हीटीजी/205/2017/10594 दिनांक 01.05.2019 द्वारा जिलों को प्रसारित किये गये हैं। उक्त आदेशों के अनुसार साथ ही सामान्य प्रशासन विभाग द्वारा अधिसूचना दिनांक 31.05.2018 में विशेष पिछड़ी जनजाति के अभ्यर्थियों के लिये बिना नियुक्ति प्रक्रिया का पालन किये अर्हताधारी अभ्यर्थियों को नियुक्ति देने के आदेश दिये गये हैं। भविष्य में ऐसे भाषाई शिक्षकों की नियुक्ति की जा सकेगी जो स्वयं विशेष पिछड़ी जनजाति के तहत आते हैं एवं पूर्व में (न्यायालयीन अवमानना के प्रकरणों में) की गयी नियुक्तियां भी इसी नियम के तहत नियमित की जाएंगी।



उपरोक्त के अतिरिक्त अन्य कोई भी न्यायालयीन प्रकरण जो भाषाई शिक्षकों की नियुक्ति के संबंध में है उनका निराकरण इसी आदेश के तहत किया जाता है। अर्थात् उन्हें भी शिक्षक पात्रता परीक्षा उत्तीर्ण करना अनिवार्य होगा।”

Petitioners cannot be discriminated on the basis of Rules, 2018 & Orders dated 01.05.2019 and 31.05.2018 which came into picture after extending the benefit to similarly situated persons of Sheopur district by order dated 23.10.2015.

12. Accordingly, present petition stands ***disposed of*** in the following manner:

- (i) Impugned order Annexure P-1 dated 15.11.2019 is hereby quashed;
- (ii) Respondents are directed to extend the benefit of Adhyapak Samvarg to petitioners as per Rules, 2008;
- (iii) Respondents are directed to give same benefit to the present petitioners which has already been extended to similarly situated persons of Sheopur district;
- (iv) Respondents are further directed to extend all consequential benefits to petitioners within a period of three months from the date of receipt of certified copy of this order, however, petitioners are not entitled to backwages of the period in which they have not actually worked, on the principle of no work no pay. Respondents are further directed to permit the petitioners to perform their duties and continue to pay the salary.

(Anand Singh Bahrawat)
Judge