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WA-3600-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

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HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL

ON THE 21st OF JANUARY, 2026WRIT APPEAL No. 3600 of 2025*PREMA DEVI**Versus**SMT. ANEETA KUSHWAH AND OTHERS*

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Appearance:

Shri Anil Shrivastava and Shri Ashish Shrivastava-Advocate for appellant.

Shri Udit Saxena -Advocate for respondent No.1.

Shri Ankur Mody-Additinal Advocate General for respondents/State.

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ORDER

Per. Justice D.D. Bansal;

This intra-court-appeal under Section 2 (1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal), Adhiniyam, 2005 has been preferred by the appellant (respondent No. 4 in writ petition) challenging the order dated 19.9.2025 passed by learned Single Judge in W.P. No. 2675 of 2014, whereby petition filed by respondent No.1 (petitioner in writ petition) has been allowed.

2. Relevant paragraphs 7 and 8 of the order passed by the learned Single Judge are quoted as under:-

"7. In the light of aforesaid, it is clear that the aforesaid course, i.e., Uttar Madhyama Certificate (higher secondary) in Sanskrit and higher secondary school (10+2) course conducted by M.P. Board of secondary Education is equal. Once, the petitioner's qualification is equal to the higher secondary school (10+2) course conducted by M.P. Board of Secondary Education. Petitioner has secured 58% marks and respondent No.4 has secured 43% marks and therefore, the petitioner is more meritorious. Therefore, respondents are directed to appoint the petitioner on the post of Asha Sahyogi in Behat sector, P.H.C. Hastinapur, Disttt. Gwalior. Consequently, the appointment order dated 06.03.2014 of respondent No.4 is hereby quashed.



8. Respondents are directed to appoint the petitioner along-with all consequential benefits except backwages and also directed to comply the aforesaid exercise within a period of one month from the date of receipt of certified copy of this order."

3. Learned counsel for the appellant submits that respondents/State upon consideration of the candidature of the appellant rightly gave her appointment on the post of Asha Sahyogi vide order dated 06.03.2014 (Annexure P/1) and pursuant thereto, the appellant is working on the post since last 12 years. He also submits that the objection to the appointment of the appellant was taken by the respondent No.1 by filing application on 07-04-2014 (Annexure A-7) and in fact the respondent No.1 is not qualified for the post because she does not possess requisite qualification of 10+2 course conducted by M.P. Board of Secondary Education. He submits that without taking into consideration this aspect of the matter, learned single judge has passed the impugned order, which is not sustainable in view of the decision given by a Division Bench of this court in W.A. No. 829/2025 (Shailendra Udeniya v. The State of Madhya Pradesh and Ors.). With these submissions, he prays for allowing the Writ Appeal.

4. In turn, learned counsel appearing for respondent No.1 supports the impugned order passed by learned Single Judge and submits that since the respondents/State did not consider the qualification of respondent No.1 in right perspective and illegally appointed the appellant, hence, she immediately on 07-4-2014 raised objection and when it was turned down, respondent No.1 immediately filed the writ petition on 30.04.2014. He submits that since the respondent No.1 is qualified for the post, and is more meritorious than the appellant, therefore learned single judge has rightly considered her claim and quashed the appointment of the appellant with further direction to the respondents/State to appoint the respondent No.1 on the post.

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

6. In the present case, it is not in dispute that the respondent No.1 cleared her Uttar Madhyama Certificate (higher secondary) in Sanskrit from Maharshi Patanjali Sanskrit Sansthan, Bhopalam (Bhopal) and the learned Single Judge by placing



reliance on the circular dated 27.04.2009 (Annexure P-8) rightly considered the certificates placed on record by respondent No.1 as equal to high school and higher secondary examination. It is clear that the respondent No.1 has secured 58 % marks.

7.As against the respondent No.1, the appellant has cleared her 12th course from M.P. Board and secured 43% marks. So, it is clear that the appellant is less meritorious than the respondent No.1.

8. Except the argument of equity that the appellant is working on the post since last 12 years, learned counsel for the appellant has not been able to point out any illegality or perversity in the order passed by learned Single Judge.

9. In the light of aforesaid factual scenario, the decision in the case of **Shailendra Udeniya (supra)** does not provide any help to the case of appellant and is distinguishable on facts.

10. Resultantly, finding no ground to interfere in the order passed by learned Single Judge, instant Writ Appeal fails and is hereby ***dismissed*** at its admission stage itself.

11. However, no order as to costs.

(ANAND PATHAK)
JUDGE

(DWARKA DHISH BANSAL)
JUDGE

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