

- (3) Sufficient knowledge of Hindi and English.
- (4) General Knowledge of Computer.

3. The petitioner with qualification of B.A., M.A. (Social Work), Pre-Metric Training, B.Ed. in Visually Impairment with necessary teaching experience for the post of Lecturer (Visually Disabled) applied for the said post online on 30.3.2017. Respondent No.2 after scrutiny of the documents issued the list of rejected candidates on 21.5.2018 on various grounds. The name of the petitioner was not mentioned in the said list of rejected candidates. Respondent No.2 informed the petitioner for Interview on 18.7.2018. As per marks obtained in the Interview, the petitioner was placed in the top of select list. Thereafter, respondent No.2 issued the final selection list in which, her name was not included. Vide e-mail dated 25.7.2018, respondent No.2 informed the petitioner that her candidature has been rejected on the ground that she is not having the teaching experience after obtaining the educational qualification i.e. B.Ed. Hence, the present petition before this Court.

4. The petitioner has assailed the impugned action of respondent No.2 on the ground that she is having educational qualification and experience as per Recruitment Rules and the qualification prescribed in the advertisement for the post in question, respondent No.2 scrutinized her documents and thereafter, she was called for the Interview otherwise her name would have been included in the list of rejected candidates for want of necessary qualification. Once the petitioner had been permitted to appear in the Interview, her candidature ought not to have been rejected on the ground that she is not having necessary qualification as per Recruitment Rules. The petitioner

has filed copy of the mark-sheet of B.A., M.A., and B.Ed. She has also filed the copy of certificate of Training Course for Primary School Teachers for visually handicapped issued by National Institute for Visually Handicapped in this petition. She is also having the experience certificate issued by Jila Shiksha Kendra, Sagar certifying her teaching experience from 1.9.2007 to 31.3.2011 (total 3 years 6 months) to visually disabled children.

5. Shri A.K. Sethi, learned senior counsel appearing for the petitioner, argued that as per Recruitment Rules, qualification for the post in question is B.Ed. in the concerned disability and 2 years teaching experience in Brail Scripts. The petitioner is having B.Ed. degree as well as 2 years teaching experience and after verification of these two requirements, she was called for Interview. Now. The respondent No.2, M.P. Public Service Commission cannot be permitted to interpret the Recruitment Rules that the teaching experience is required after obtaining the B.Ed. degree in the concerned disability. By giving wrong interpretation to the educational qualification, the respondent No.2 has wrongly rejected the candidature of the petitioner.

6. Shri Sethi, learned senior counsel further submitted that respondent No.3 who is teacher in Govt. Primary School, was made as Member of Selection Committee, therefore, the Interview was taken by such person who was not eligible to take Interview for the post of Lecturer, hence the entire selection is liable to be set aside.

7. Despite Notice, respondent No.1 has not filed any return.

8. Respondent No.2, M.P. Public Service Commission,

who is main contesting party, has filed the return by submitting that the candidature of the petitioner has rightly been rejected because in the form submitted by her, she mentioned the teaching experience from 11.11.2011 to 31.3.2014 in Visual Disability and passed the B.Ed. in VI-Visual Impairment on 1.6.3.2016. Thus, she was not having teaching experience of 2 years after obtaining the qualification of B.Ed. in subject in question. The respondent No.2 has placed reliance over the judgment passed by the apex Court in the case of **A.P. Public Service Commission V/s. Koneti Venkateshwarulu : (2005) 7 SCC 177**, in which, it is held that the cancellation of candidature of respondent on the basis of incorrect information furnished in the form is correct and same cannot be matter of judicial review.

9. Shri V.P. Khare, learned counsel appearing for respondent No.2, submitted that the candidates who participated in the Interview cannot challenge the Interview test after being declared unsuccessful in the Interview. In support of his contention, he has placed over the judgment of apex Court in the case of **Madan Lal V/s. State of Jammu & Kashmir : AIR 2014 SC 1088**. It has been made clear in the advertisement itself that the candidates who fulfils the educational qualification prescribed under the Recruitment Rules may apply for the post after verifying own documents. It is submitted that 52 applications were rejected by respondent No.2 vide order No.2965 dated 21.5.2018 including two candidates who had not experience of 2 years of teaching after obtaining educational qualification i.e. B.Ed. That, total 93 applications were received for the post of Lecturer (Visually Disabled) and interviews were taken on 19.7.2018 and the result was declared on 23.7.2018. It

is well settled that inclusion of name in the selection list does not create indefeasible or vested right to appointment as held by the apex Court in the case of **Ramesh Gajendra Jadhav V/s. Secretary : AIR 2010 SC 3502.**

10. Shri Khare, learned counsel for respondent No.2, has also placed reliance over the judgment of apex Court passed in the case of **Madras Institute of Development Studies V/s. Dr. K. Sivasubramaniyan : AIR 2015 SC 3643,** in which it has been held that decision of Academic Authorities about suitability of a candidate to be appointed as Associate Professor in a research institute, cannot normally be examined by High Court under its writ jurisdiction.

11. In the case of **Madan Lal V/s. High Court of Jammu & Kashmir : AIR 2014 SC 3434,** the apex Court has held that where the candidates have no grievance against any of the selected candidates in that particular selection, then it would only amount to consideration by way of Public Interest Litigation which is not permissible in the service matters. In the present case, the aforesaid judgment has been cited on the ground that the petitioner has not made the selected candidates as respondents.

12. Finally, Shri Khare, learned counsel has placed reliance over the decision of Division Bench of this Court in the case of **State of M.P. V/s. Dr. Divya Darshan Sharma (W.A. No.345/2018 decided on 23.3.2018)** in which the rejection by the M.P. Public Service Commission on the basis of opinion of the Expert has declined to interfere in the writ petition in exercise of power of judicial review as the High Court cannot sit as a Court of appeal to examine the decision making process. In

the case of **M.P. Public Service Commission V/s. Sandeepa Malhotra : 2012 (3) MPLJ 132**, the case of the candidate was examined by an Expert Committee and in whose opinion, she was not having requisite qualification, the Division Bench of this Court has held that it cannot be termed as arbitrary or otherwise objectionable, hence prayed for dismissal of this writ petition.

13. The appointments to the post of Lecturer in Hearing Disabled or Visually Disabled are governed by the Recruitment Rules. The recruitment to the service after commencement of these Rules shall be by direct recruitment through competitive examination or Interview or selection by both and promotion of a member of service or by transfer of a person in substantive or officiating capacity. The eligibility of a candidate for direct recruitment is provided under Rule 8. As per sub rule (2) of Rule 8, the candidate must possess the educational qualification prescribed for the service as shown in Schedule III, but it also provides that in exceptional cases, the Commission may on the recommendation of the State Government treat as qualified any candidate who though not possessing any of the qualifications prescribed in this clause has passed examination conducted by other institutions by such a standard. As per Rule 10, the decision of the Commission as to the eligibility or otherwise for admission to the examination shall be final and no candidate to whom a certificate of admission has not been issued by the Commission shall be allowed to appear in the examination/Interview.

14. According to the petitioner, respondent No.2 issued the list of rejected candidates for want of necessary qualification, experience, etc. on 21.5.2018 in which her name was not there,

therefore, once she has been declared qualified to appear in the examination/selection/Interview, respondent No.2 cannot take somersault and declare her ineligible to participate in the selection process, especially when she has acquired adequate marks in interview. This submission of Shri Sethi, learned senior counsel is not acceptable. If due to any reason or oversight, the candidate has been permitted to participate in the selection process despite lack of eligibility and later on his/her candidature cannot be rejected by virtue of Rule 10, then it would amount to selection of a person without fulfilling the eligibility criteria under same Recruitment Rules, which cannot be an intention of the Legislature. If the candidate is permitted to appointment without fulfilling the eligibility criteria by virtue of Rule 10, then Rule 8 sub rule (2) of the Recruitment Rules would be in otiose. It is not the case that only in case of the petitioner, the respondent No.2 has rejected the candidature on the ground that she is having teaching experience prior to obtaining the educational qualification. As per list of candidates published on 21.5.2018 (Annexure P/10), candidature of two aspirants viz. Manoj Kumar Patidar and Anita Dod have been rejected on the ground that they are having the experience of teaching before obtaining the educational qualification. Therefore, it is not a case that the respondent No.2 has given wrong interpretation of educational qualification prescribed in Schedule only in the case of the petitioner. The respondent No.2 can reject the candidature before publishing the final select list for want of necessary and essential qualification prescribed for the post. It is also settled law that despite selection candidate has no right to claim appointment.

15. As per age and educational qualification for direct recruitment given in Schedule III, the Lecturer must have - (i) Post Graduate degree in Arts/Science/Commerce; (ii) B.Ed. degree in the concerned disability and 2 years teaching experience in Speech Therapy; (iii) Sufficient knowledge of Hindi and English; (iv) General Knowledge of Computer. Bed. Degree in the concerned disability and 2 years teaching experience is given together as one of the qualification. In Post Graduation degree obtained under Arts/Science/Commerce subject has no subject related for teaching to a disabled student. Only by way of B.Ed. course, the candidate can earn the qualification and degree in a particular field like Speech Therapy or Hearing Disability or Orthopaedic Disability.

16. After B.Ed. course, the petitioner has obtained the said degree in **Visual Impairment** and also earned teaching experience in the said field first time. Before obtaining the degree, she had undergone the Training Court for Primary School teachers for visually handicapped in the year 1995-1996 and on the basis of this certificate, she is claiming the experience of teaching in an educational institution run by Jila Shiksha Kendra. This Training Certificate is not recognised as one of educational qualification under the Recruitment Rules. Therefore, any experience on the basis of this certificate cannot be equated with the teaching experience earned after obtaining the B.Ed. degree. It is purely a discretion of respondent No.2, M.P. Public Service Commission to consider the candidature of the candidate on the basis of qualification prescribed under the advertisement as well as under the Recruitment Rules and as held by apex Court and by this Court as well, the same is beyond

the scope of judicial review under Article 226 of the Constitution of India. Hence, there is no illegality in rejection of candidature of the petitioner. I do not find any ground to interfere with

17. Accordingly, this petition fails and is hereby dismissed.

No order as to costs.

**(VIVEK RUSIA)
JUDGE**

Alok/-