

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 13<sup>th</sup> OF OCTOBER, 2023**

**WRIT PETITION No. 7912 of 2022**

**BETWEEN:-**

**SMT. MADHURI PRAJAPATI W/O SHRI  
RUPESH PRAJAPATI, AGED ABOUT 32  
YEARS, OCCUPATION: TEACHER WARD  
NO. 15, NAGJHIRI GHAT ROAD, NEAR SHIV  
MANDIR (MADHYA PRADESH)**

**.....PETITIONER**

***(BY SHRI MANOJ KUMAR AGRAWAL, ADVOCATE)***

**AND**

- 1. THE STATE OF MADHYA PRADESH  
THROUGH ITS PRINCIPAL SECRETARY  
MINISTRY VALLABH BHAWAN, BHOPAL  
(MADHYA PRADESH)  
COMMISSIONER TRIBAL WELFARE**
- 2. DEPARTMENT SATPUDA BHAWAN, IIND  
FLOOR BHOPAL (MADHYA PRADESH)  
PROFESSIONAL EXAMINATION BOARD  
THR. ITS CHAIRMAN CHAYAN BHAWAN**
- 3. MAIN ROAD -1 CHINAR PARK (EAST)  
(MADHYA PRADESH)  
DIVISIONAL DEPUTY COMMISSIONER  
SCHEDULE CAST WELFARE DIVISION.  
INDORE. DIVISION INDORE OPPO.**
- 4. HOLKDAR SCIENCE COLLEGE PETC  
PREMISES, AB. ROAD. INDORE (MADHYA  
PRADESH)  
ASSISTANT COMMISSIONER OFFICER OF**
- 5. THE TRIBAL WELFARE BURHANPUR  
(MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI KOUSTUBH PATHAK, ADVOCATE)***

*This petition coming on for admission this day, the court passed the following:*

**ORDER**

1] This writ petition has been filed by the petitioner under Article 226 of the Constitution of India against the order dated 22/02/2022, passed by respondent No.4 Divisional Deputy Commissioner, Department of Tribal Affairs and Schedule Caste, Division Indore (M.P.) wherein the petitioner has been informed that she does not possess the eligibility criteria for the post of Middle School Teacher (Tribal) as advertised vide advertisement dated 28/09/2018.

2] In brief, the facts of the case are that the petitioner had applied for the post of Middle School Teacher pursuant to the advertisement dated 28/09/2018, the examination regarding which started from 16/02/2019 and in the selection list, the petitioner was selected, and her name appeared at Sr.No.355. Thereafter, she was called for documents verification scheduled for 23/07/2021, and on that day, she was also issued a certificate of verification of documents. It is further the case of the petitioner that on 19/11/2021, the final list was also published as 'Tribal Middle School English' and the petitioner was also appointed in High School, Navra, Tehsil Khaknar, District Burhanpur vide order dated 29/12/2021, passed by respondent No.4 and the petitioner also gave her joining on 03/01/2022, at the office of respondent No.5 Assistant Commissioner, however, on 08/02/2022, the Divisional Deputy Commissioner issued a letter to the petitioner informing her about the deficiency of her eligibility and

asked her to clarify about the same on 14/02/2022 at Indore office. On 14/02/2022, the petitioner appeared in person at Indore office of respondent No.1 and also submitted her clarification and on 18/02/2022, she also submitted her additional submissions informing that she was qualified, and there appears to be some misinterpretation of the qualification clause of the eligibility criteria, however, on 23/02/2022, the petitioner was served the impugned order informing that her appointment has been cancelled with immediate effect and thus, this petition.

3] Shri M.K. Agrawal, learned counsel for the petitioner has drawn the attention of this Court to the rules which have been notified on 08/08/2018, known as M.P. Tribes and Scheduled Castes Teaching Cadre (Service and Recruitment) Rules, 2018 (hereinafter referred to as Rules of 2018) in which, it is mentioned that for the post of Middle School Teacher, the eligibility criteria shall be graduation, and more particularly graduate with 45% marks and also having B.Ed. degree. Counsel has also submitted that the respondents have held that the petitioner is not graduate in English Literature, and hence is not eligible to be posted as a Middle School Teacher. Thus, it is submitted that the respondents have clearly erred in misreading the aforesaid schedule 3 of the Rules of 2018. It is also submitted that in the advertisement dated 24/06/2021, issued by the respondents, it is stated that as per the amendment for eligibility of the Middle School Teacher, the last date for submitting the application is 30/06/2021, and as per the amended Rules of 2019, the person

having Bachelor's Degree in the relevant subject with 45% marks apart from other qualifications is eligible. Thus, it is submitted that the aforesaid amended Rules cannot be applied in the case of the petitioner who had already got his appointment as per the old Rules of 2018, in which, she was eligible for the post of Middle School Teacher. Thus, it is submitted that the impugned order be set aside, and the petitioner may be allowed to continue on her post. In support of his submissions, counsel for the petitioner has relied upon the decisions rendered by the Supreme Court in the case of *State of Uttarakhand and others vs. Deep Chandra Tewari and another reported as (2013) 15 SCC 557*, *Mritunjoy Sett (Dead) by LRs vs. Jadunath Basak (Dead) by LRs reported as (2011) 11 SCC 402* and in the case of *K. Manjusree vs. State of Andhra Pradesh reported as (2005) 3 SCC 512*.

4] Shri Kaustubh Pathak, learned counsel for the respondents, on the other hand, has opposed the prayer and it is submitted that no case for interference is made out as per new amended Rules of 2018, and the petitioner did not possess the requisite qualification of Graduate in related subject which is English Literature in the present case, thus, there is no illegality committed by the respondents in passing the impugned order.

5] Heard. Having considered the rival submissions and on perusal of the record, it is found that the controversy revolves around the old Rules of 2018, and the new Rules of 2019. The old Rules have been notified on 08/08/2018, whereas, the new Rules have been notified

on 24/06/2019. At this juncture, it would also be relevant to reproduce both these rules, which read as under:-

Old Rules of 08/08/2018

“न्यूनतम 45 प्रतिशत अंकों के साथ स्नातक उपाधि तथा शिक्षा शास्त्र में एक वर्षीय स्नातक उपाधि (बी.एड.) जो इस संबंध में समय समय पर जारी राष्ट्रीय अध्यापक शिक्षा परिषद (मान्यता मानदण्ड तथा क्रियाविधि) विनियमों के अनुसार प्राप्त किया गया हो।”

New Rules of 24/06/2019

“संबंधित विषय में स्नातक उपाधि तथा प्रारंभिक शिक्षा में दो वर्षीय डिप्लोमा अथवा उसके समकक्ष अथवा संबंधित विषय में कम से कम 50 प्रतिशत अंकों के साथ स्नातक उपाधि तथा शिक्षा शास्त्र में एक वर्षीय स्नातक उपाधि (बी.एड.) अथवा संबंधित विषय में कम से कम 45 प्रतिशत अंकों के साथ स्नातक उपाधि एवं इस संबंध में समय समय पर जारी राष्ट्रीय अध्यापक शिक्षा परिषद (मान्यता, मानदण्ड तथा क्रियाविधि विनियमों के अनुसार शिक्षा शास्त्र में स्नातक उपाधि (बी.एड.)”

(emphasis supplied)

6] On perusal of both these rules/eligibility criteria in juxtaposition, it clearly reveals that earlier there was no condition imposed that a candidate must be graduate in the particular subject, whereas, in the subsequent rules, the requirement was that the candidate must be graduate in the particular subject and since in the present case, the related subject is English, the respondents have held that despite the fact that the petitioner was already appointed on the post of Middle School Teacher, her eligibility criteria should be graduate in English Literature rather than graduate only. In the considered opinion of this Court, the aforesaid reasoning adopted by the respondents is clearly erroneous, and is outside the scope of the

old Rules of 2018. It is a trite law that a Law cannot be applied retrospectively unless it is specifically stated therein, and in the Rules of 2019, there is no such provision that these rules would be applicable retrospectively and would override the earlier Rules of 2018.

7] In view of the same, the writ petition is *allowed*, the impugned order dated 22/02/2022 is hereby set aside, and the status of the petitioner as Middle School Teacher is hereby restored. It is also directed that the petitioner shall be given all the consequential benefits pecuniary or otherwise from the date of her initial joining.

Sd/-

**(SUBODH ABHYANKAR)**  
**JUDGE**

krjoshi