

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

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

ON THE 29th OF NOVEMBER, 2023

WRIT PETITION No. 17893 of 2023

BETWEEN:-

**ATEESH RAI S/O ADITYA RAI, AGED ABOUT 31 YEARS, OCCUPATION:
SERVICE 133 SHALIMAR SWAYAM BANGLOWS BHAGAH ROAD NEAR
CHANDRAGUP MOURYA SQUARE, DISTRICT INDORE (MADHYA
PRADESH)**

.....PETITIONER

(BY SHRI ANIL NAGRANI, ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH THROUGH PRINCIPAL
1. SECRETARY VALLABH BHAWAN, DISTRICT BHOPAL . (MADHYA
PRADESH)**

**2. MADHYA PRADESH PUBLIC SERVICE COMMISSION THROUGH ITS
SECRETARY RESIDENCY AREA, INDORE (MADHYA PRADESH)**

**MADHYA PRADESH HOUSING AND INFRASTRUCTURE
3. DEVELOPMENT BOARD THROUGH ITS COMMISSIONER 3RD-4TH
FLOOR, BLOCK 3, PARYAVAS BHAWAN, MOTHER TERESA ROAD
(MADHYA PRADESH)**

.....RESPONDENTS

***(RESPONDENT NO.1 / STATE BY SHRI SUDARSHAN JOSHI, GOVERNMENT
ADVOCATE)***

***(RESPONDENT NO.2 BY SHRI VINDHYAVASHINI PRASAD KHARE,
ADVOCATE)***

(RESPONDENT NO.3 BY SHRI SHANTNU CHOURASIA, ADVOCATE)

WRIT PETITION No. 18054 of 2023

BETWEEN:-

**SARAS SUHANE S/O MANOJ KUMAR GUPTA, AGED ABOUT 31 YEARS,
OCCUPATION: SERVICE R/O 45-G WARD NO. 7 BEHIND MONA HOSPITAL
BARETH ROAD GANJ BASODA DISTT. VIDISHI (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI MANU MAHESHWARI, ADVOCATE)

AND

**MADHYA PRADESH PUBLIC SERVICE COMMISSION THE SECRETARY
1. RESIDENCY AREA, DALY COLLEGE ROAD, DISTRICT INDORE
(MADHYA PRADESH)**

**THE DEPUTY CONTROLLER OF EXAMINATION MADHYA PRADESH
2. PUBLIC SERVICE COMMISSION RESIDENCY AREA, DALY COLLEGE
ROAD, DISTRICT INDORE (MADHYA PRADESH)**

**THE COMMISSIONER, M.P. HOUSING AND INFRASTRUCTURE
DEVELOPMENT BOARD, 3RD 4TH FLOOR BLOCK 3 PARYAVAS
3. BHAWAN, MOTHER TERESA ROAD, DISTRICT BHOPAL (MADHYA
PRADESH)**

.....RESPONDENTS

***(RESPONDENTS / MPPSC BY SHRI VINDHYAVASHINI PRASAD KHARE,
ADVOCATE)***

(RESPONDENT NO.3 BY SHRI SHANTNU CHOURASIA, ADVOCATE)

*These petitions coming on for admission this day, the court passed
the following:*

O R D E R

About the identicalness in the controversy involved in the present cases, with the joint request of the parties, these writ petitions are finally heard and being decided by this common order.

The facts of W.P. No.18054 of 2023

02. The petitioner has filed the present petition under Article 226 of the Constitution of India challenging the notices dated 16.06.2023 & 12.07.2023 issued by the Madhya Pradesh Public Service Commission

(in short MPPSC), whereby his candidature has been rejected for want of Master of Business Administration (MBA) for the post of Branch Officer / Estate Manager to be selected for The M.P. Housing & Infrastructure Development Board.

03. The MPPSC issued an advertisement dated 30.12.2021 for selection to the post of Branch Officer / Estate Manager for the M.P. Housing & Infrastructure Development Board. In the said advertisement, the educational qualifications for the said post are written as 'Bachelor Degree in any subject and MBA'. The petitioner applied for the said post on 11.02.2022 and appeared in the written examination held on 06.11.2022 under 'Unreserved' category. The petitioner cleared the written examination and on 29.11.2022, he was called for document verification. Vide advertisement dated 16.06.2023, the petitioner has been declared disqualified due to lack of educational qualification i.e. MBA. The petitioner approached the respondents by submitting a detailed representation stating that he possesses a Bachelor's Degree in Engineering and a Master's in Management Studies (MMS) which is equivalent to MBA, therefore, he is liable to be appointed on the said post. Vide advertisement dated 12.07.2023, the respondents have rejected the candidature of the petitioner, hence, the present petition is before this Court.

04. Vide order dated 24.08.2023 by way of interim relief, the petitioner was permitted to appear in the interview, however, the result was not directed to be declared without leave of this Court and he shall not claim any parity. In compliance of the aforesaid order, the petitioner was permitted to appear in the interview.

The facts of W.P. No.17893 of 2023

05. Petitioner – Ateesh Rai filed a Writ Petition who has also been declared disqualified as he does not have the essential qualification for the post in question i.e. MBA. In this case, the petitioner possesses a degree of a Post Graduate Diploma in Management (PGDM) from Balaji Institute of Modern Management and the Course is approved by All India Council for Technical Education (AICTE), Ministry of Human Resource Development, Government of India. According to the petitioner, the syllabus for both the courses i.e. PGDM and MBA are the same. The Association of Indian Universities (AIU) vide letter dated 12.12.2013 has duly certified that two years full-time Post Graduate Diploma in Management is equivalent to an MBA Degree.

The reply of the M.P. Public Service Commission

06. The recruiting agency PSC filed a reply by submitting that the petitioners do not possess the educational qualification (i.e. MBA) as per the advertisement and as per the Recruitment Rules. The advertisement dated 01.03.2022 specifically provides that for the post of Branch Officer / Estate Officer, the essential educational qualification is a Bachelor Degree + MBA. It is further submitted that as per Schedule – IV (A) Serial No.4 of Madhya Pradesh Housing and Infrastructure Development Board (Organizational Structural and Recruitment) Regulations, 2016 (in short the Regulations of 2016), the education qualification is a Degree from any Faculty + MBA, therefore, no equivalent degree is acceptable for the said post and the petitioner has rightly been declared disqualified.

07. By way of additional return, it is submitted that MPPSC sought

a clarification from the M.P. Housing & Infrastructure Development Board whether any other equivalent qualification can be accepted for the post in question. Vide letter dated 06.06.2023, the Commissioner, of M.P. Housing & Infrastructure Development Board specifically denied any amendment in the educational qualification, therefore, the writ petition is liable to be dismissed.

Submissions of the petitioner's counsel

08. Shri Manu Maheshwari, learned counsel for the petitioner submits that the petitioner studied the course of Master of Management Studies at Jamnalal Bajaj Institute of Management Studies (Autonomous) and the Degree of MMS was granted by the University of Mumbai. The syllabus of the MMS course as well as MBA are the same. The course is recognized by the AICTE. On the basis of the said qualification, the petitioner has also cleared the Common Management Admission Test, 2017 for the post of Assistant Professor in Management Subject, therefore, MBA as well as MMS, both are equivalent degrees and the rejection of the petitioner's candidature being unsustainable, liable to be set aside. In support of his contention, learned counsel placed reliance upon a judgment delivered by the High Court of Rajasthan in the case of *Kailash Chandra Meena & Others v/s Rajasthan Public Service Commission Through Its Secretary, Ajmer & Others* reported in *2013 SCC OnLine Raj 4204*, in which MBA has been treated equivalent to M.Com. (Business Administration), Master of Human Resource Management (MHRM) and Master of Management Studies / Sciences Courses run by different universities associated by University Grants Commission.

09. Learned counsel for the petitioner – Ateesh Rai has placed reliance upon a judgment delivered by the High Court of Delhi in the case of *Abhishek Yadav v/s Oriental Insurance Company Limited & Another* reported in *2014 SCC OnLine Del 1069*, in which the aforesaid certificate issued by the AIU has been accepted to treat the Degree of PGDM equivalent to MBA Degree. Reliance has also been placed upon several judgment delivered in the cases of *Haridev S. v/s The Assistant General Manager, Canara Bank, Recruitment Cell & Others [WP(c). No.28538 of 2016(N)]*, *The Assistant General Manager, Canara Bank, Recruitment Cell v/s Haridev S. & Others* reported in *2017 SCC OnLine Ker 50* and *Pappu Kr. Pankaj & Others v/s The State of Bihar & Others* reported in *2018 SCC OnLine Pat 6332*.

Submissions of The M.P. Public Service Commission's counsel

10. Shri Khare, learned counsel for the MPPSC submits that the Commission prescribed the minimum educational qualification on the basis of Recruitment Rules applicable for the post in question and in advertisement or Rules, there is no such relaxation that equivalent degree shall be accepted for the post in question. Learned counsel placed reliance upon a judgment delivered by the Apex Court in the case of *Madras Institute of Development Studies & Another v/s Dr. K. Sivasubramaniyan & Others* reported in *AIR 2015 SC 3643*, in which the Apex Court had held that the decision of Academic Authorities about the suitability of a candidate to be appointed cannot normally be examined by the High Court under its writ jurisdiction. Learned counsel has also placed reliance upon a judgment delivered by the Apex Court in

the case of ***Zahoor Ahmad Rather & Others v/s Sheikh Imtiyaz Ahmad & Others*** reported in (2019) 2 SCC 404, wherein the Apex Court has held that prescription of qualifications for a post is a matter of recruitment policy. The State as the employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. It has also been held that the equivalence of a qualification is not a matter which can be determined in the exercise of power of judicial review. Paragraphs – 26 & 27 of the aforesaid judgment is reproduced below:-

“26. We are in respectful agreement with the interpretation which has been placed on the judgment in *Jyoti KK* in the subsequent decision in *Anita* (supra). The decision in *Jyoti KK* turned on the provisions of Rule 10(a)(ii). Absent such a rule, it would not be permissible to draw an inference that a higher qualification necessarily pre-supposes the acquisition of another, albeit lower, qualification. The prescription of qualifications for a post is a matter of recruitment policy. The state as the employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. Similarly, *equivalence of a qualification* is not a matter which can be determined in exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the state, as the recruiting authority, to determine. The decision in *Jyoti KK* turned on a specific statutory rule under which the holding of a higher qualification could pre-suppose the acquisition of a lower qualification. The absence of such a rule in the present case makes a crucial difference to the ultimate outcome. In this view of the matter, the Division Bench of the High Court was justified in reversing the judgment of the learned Single Judge and in coming to the conclusion that the appellants did not meet the prescribed qualifications. We find no error in the decision of the Division Bench.

27. While prescribing the qualifications for a post, the State, as

employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The state is entrusted with the authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision making. The state as a public employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these are essentially matters of policy. Judicial review must tread warily. That is why the decision in *Jyoti KK* must be understood in the context of a specific statutory rule under which the holding of a higher qualification which presupposes the acquisition of a lower qualification was considered to be sufficient for the post. It was in the context of specific rule that the decision in *Jyoti KK* turned.”

[Emphasis Supplied]

Submissions of M.P. Housing & Infrastructure Development Board

11. Shri Shantnu Chourasia, learned counsel for respondent No.3 submits that before rejecting the candidature of the petitioners, a letter dated 02.05.2023 sent by the Department of Urban Administration & Infrastructure was duly considered and rejected by the answering respondent, about the equivalence of the degree of MMS, PGDIM, PGDFM, and MBA Financial Administration with MBA. A similar request came from MPPSC vide letter dated 06.03.2023 and vide reply dated 10.04.2023, the answering respondent has specifically made it clear that for the post of Branch Officer / Estate Manager, the educational qualification is MBA which cannot be amended under the Regulations of 2016. It was further made clear that in the Regulation of 2016, there is no such provision for accepting a degree equivalent to MBA. In support of his contention, learned counsel placed reliance upon a judgment delivered by the Apex Court in the case of *North Delhi*

Municipal Corporation v/s Kavinder & Others reported in (2021) 11 SCC 353, in which the Apex Court held that the advertisement did not specifically provide how equivalence was to be established between postgraduate degree / diploma in the subject specified in the advertisement and a postgraduate degree / diploma in allied subject. The employer is best suited to judge whether the degree of the candidate was to be an allied subject. The Tribunal manifested error in holding that the first respondent was qualified mainly because he studied two subjects as a part of his MBA degree. Paragraph – 9 of the aforesaid judgment is reproduced below:-

“9. The first respondent completed the MBA degree programme from Maharshi Dayanand University, Rohtak. The mark sheets which have been relied upon by the first respondent indicate that during the course of the second semester, he studied Human Resource Management as a subject. In the fourth semester, the first respondent had a course in Industrial Relations and Labour Legislation. Studying these two subjects would not lead to the conclusion that the first respondent holds a post graduate degree or diploma in the disciplines which have been specifically spelt out in the advertisement or in any allied subject. The MBA degree cannot be regarded as allied to a post graduate degree or diploma in Social Work, Labour Welfare, Industrial Relations or Personnel Management. The recruitment was being made to the service of the appellant. The advertisement did not specifically provide how equivalence was to be established between a postgraduate degree/diploma in the subjects specified in the advertisement and a postgraduate degree/diploma in an allied subject. The appellant as an employer was best suited to judge whether the degree of the first respondent was in an allied subject. Unless this assessment was perverse or contrary to the requirements prescribed, the Tribunal had no reason to interfere. We are of the view that the Tribunal was manifestly in error in holding that the first respondent was qualified merely because he studied two subjects as a part of his MBA degree programme, namely, Human Resource Management and Industrial Relations

and Labour Legislation. The High Court has simply affirmed the view of the Tribunal.”

[Emphasis Supplied]

12. Shri Shantanu Chourasia has also placed reliance upon several judgments delivered in the cases of *Hibtesh Babbar v/s Punjab National Bank* reported in 2014 SCC OnLine Del 4388, *Director AIIMS & Others v/s Dr. Nikhil Tandon & Others* reported in (1996) 7 SCC 741, *J. Ranga Swamy v/s Government of Andhra Pradesh & Others* reported in (1990) 1 SCC 288, *Government of NCT of Delhi & Others Pooja Devi* reported in 2023 SCC OnLine Del 6984, *Government of NCT of Delhi & Others v/s Seema Kumari* reported in 2023 SCC OnLine Del 4987, *Naveen Sharma v/s Union of India & Another* reported in 2023 SCC OnLine Del 6025 & *Cashmir Kujur v/s The State of Chhatisgarh* reported in 2022 SCC OnLine Chh 1984 and prayed for dismissal of the writ petitions.

Appreciations & Conclusion

13. The educational qualification prescribed in the advertisement is reproduced below:-

“(G) अर्हता
अनिवार्य शैक्षणिक अर्हता : किसी भी संकाय में उपाधि + मास्टर ऑफ बिजनेस एडमिनिस्ट्रेशन (एम.बी.ए.)।
रोजगार पंजीयन – अभ्यर्थियों का मध्य प्रदेश राज्य के रोजगार कार्यालय में जीवित पंजीयन होना अनिवार्य है।”

14. As per the Regulations of 2016, the educational qualification is as under:-

Sr. No.	Name of Post	Minimum Age limit	Maximum Age limit	Educational Qualification / Eligibility
4	Branch Officer / Estate Manager	21 years	40 years	Degree from any faculty + MBA

15. Admittedly, both the petitioners do not have the degree of MBA

and they are claiming their degrees i.e. MMS & PGDM be treated to be equivalent to the degree of MBA. Neither in the advertisement nor in the service rules there is a provision for acceptance of an equivalent degree like MBA for the post in question. Therefore, it is neither in the hands of The M.P. Public Service Commission nor the M.P. Housing & Infrastructure Development Board to amend the advertisement and rules respectively to accept the candidature of the petitioners. Had an equivalent degree been made acceptable, it would have been provided in the advertisement itself so that other candidates, who have a degree equivalent to an MBA would have applied for the said post, therefore, after completion of selection, no direction can be given to modify the advertisement or rules to accept the candidature of the petitioners.

16. This Court is of the considered opinion that well accepted principle is that in deciding the matters relating to orders passed by authorities of educational institutions, the Court should normally be very slow to pass orders in its jurisdiction because matters falling within the jurisdiction of educational authorities should normally be left to their decision and the Court should interfere with them only when it thinks it must do so in the interest of justice. The Court or Tribunal is not a substitute for expert or academic bodies constituted for the specific purpose of deciding the equivalence of degrees. The superior Courts have repeatedly emphasized that the Tribunals / Courts should be content to adjudicate within their own realm and should be loath to venture into academic questions like the equivalence of degrees or their adequacy / inadequacy to particular requirements. These matters are best left to such bodies or people who have been specially designated for this

purpose. It is clear from the above discussions that the prescribed eligibility qualification for selection or recruitment or promotion in service are matters to be considered by the appropriate authority. It is not for Courts / Tribunals to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority. In the case of *The State of Rajasthan & Another v/s Lata Arun reported in JT 2002 (5) SC 210*, the Apex Court held that the eligibility qualification for recruitment in service is a matter to be considered by the appropriate authority and it is not for Courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.

17. In view of the above, both the Writ Petitions stand dismissed. No order as to cost.

Let a copy of this order be kept in the connected writ petition also.

(VIVEK RUSIA)
J U D G E

Ravi