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

**BEFORE  
HON'BLE SHRI JUSTICE VIVEK AGARWAL**

**ON THE 8<sup>th</sup> OF FEBRUARY, 2023**

**WRIT PETITION No. 2262 of 2023**

**BETWEEN:-**

**JITENDRA KUMAR DAHRWAL S/O SHRI TEKCHAND DAHRWAL, AGED ABOUT 47 YEARS, OCCUPATION: UNEMPLOYMENT SHAKTI NAGAR NEAR K.D. PUBLIC SCHOOL SHAKTI NAGAR PARK GALI NO.2 CHHINDWARA DISTRICT CHHINDWARA (MADHYA PRADESH)**

**.....PETITIONER**

***(BY SHRI DEVESH BHOJNE - ADVOCATE)***

**AND**

- 1. THE STATE OF MADHYA PRADESH THROUGH ITS PRINCIPAL SECRETARY SCHOOL EDUCATION DEPARTMENT VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**
- 2. THE COMMISSIONER, PUBLIC INSTRUCTION DEPARTMENT GAUTAM NAGAR, BHOPAL (MADHYA PRADESH)**
- 3. THE PROFESSIONAL EXAMINATION BOARD, THROUGH ITS CHAIRMAN/DIRECTOR CHAYAN BHAWAN MAIN ROAD NO.1 CHINAR PARK (EAST) BHOPAL (MADHYA PRADESH)**
- 4. THE DISTRICT EDUCATION OFFICER, CHHINDWARA DISTRICT CHHINDWARA (MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI SOURABH SONI - PANEL LAWYER)***

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

**ORDER**



Course issued by Dr. Harisingh Gour Vishwavidyalaya, Sagar, is available on record. It is evident that petitioner obtained his Graduation degree in Physics, Chemistry and Mathematics. This fact is not disputed by Shri Devesh Bhojne. Thus, in terms of the stipulation in the list of allied subjects, since petitioner is not having Agriculture as a subject during his Graduation, he is not entitled to keep his candidature intact.

7. Petitioner's second limb of argument is that the concerned recruitment rules, namely, Madhya Pradesh Rajya School Shikha Sewa (Shekshanik Samvarg), Sewa Sharte Avam Bharti Niyam, 2018 (hereinafter referred to as "The Rules of 2018") were promulgated on 01.07.2018. Eligibility test was conducted in the year 2019, whereas through an executive order dated 29.09.2022, terms and conditions have been changed and, therefore, in the light of the judgment of the Supreme Court in **The State of Uttar Pradesh Vs. Karunesh Kumar and others, 2022 LiveLaw (SC) 1035**, rules of game could not have been changed.

8. Placing reliance on the judgment of the Supreme Court in **The State of Uttar Pradesh Vs. Karunesh Kumar and others** (supra), it is submitted that in para 32, it is held that the "The principle governing changing the rules of game would not have any application when the change is with respect to selection process but not the qualification or eligibility. In other words, after the advertisement is made followed by an application by a candidate with further progress, a rule cannot be brought in, disqualifying him to participate in the selection process."

9. Thus, it is submitted that subsequent order dated 29.09.2022, will not have precedence over the original recruitment rules.

10. On the request of the petitioner, original recruitment rules and

Scheduled-III as mentioned above, are also perused.

**11.** There is a specific mention of having Post Graduate degree in the related subject as is evident from Schedule-III of the Rules of 2018. There is no mention of having Post Graduate degree in allied subject in the recruitment rules. Therefore, on face of it, if recruitment rules are to be read as it is then petitioner not possessing Post Graduate degree in Agriculture is non suited for selection on a plain reading of the recruitment rules. What authorities have added after the game began, is that they permitted persons having Post Graduate degree in allied subjects for which a detailed list is given for different subjects, like for Agriculture there is a long list of 25 allied subjects but while relaxing the condition in the Rules of 2018, it is provided that even if a person possesses a Post Graduate degree in allied subject then he should have at least Graduation degree in the main advertised subject. Thus, when this is taken into consideration, then petitioner's argument in regard to change of rules of game after the game has begun, is not applicable to the facts and circumstances of the case. When the game began, there was no provision for possessing of Post Graduate degree in allied subject. Thus, on the date of beginning of the game, petitioner was disqualified as is evident from the Schedule-III of the Rules of 2018.

**12.** Petitioner came in the picture only on account of this order clarifying the position on 29.09.2022, wherein persons possessing Post Graduate degree in allied subject were allowed to keep their candidature intact and, therefore, prescribing a condition simultaneously that such persons should at least possess degree in the main subject for which they have applied, cannot be said to be an arbitrary exercise of authority or change of rules after the game has

begun. Thus, this judgment of Hon'ble Supreme Court in **The State of Uttar Pradesh Vs. Karunesh Kumar and others** (supra) is not applicable to the facts and circumstances of the present case.

13. In view of above, petition fails and is dismissed.

(VIVEK AGARWAL)  
JUDGE

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