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WP-12781-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SURESH KUMAR KAIT,
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 8th OF APRIL, 2025

WRIT PETITION No. 12781 of 2025

SMT. RAVITA PATHAK

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Satya Prakash Mishra - Advocate for the petitioner.

Dr. S.S. Chouhan - G.A. for the respondent - State.

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ORDER

Per. Hon'ble Shri Justice Suresh Kumar Kait, Chief Justice

The petitioner has put to challenge the advertisement dated 30.12.2024 to the extent that in the recruitment notified for teaching positions and colleges run by the State Government, Department of Higher Education, a provision for granting relaxation of age, reservation and bonus marks has been carved out for Guest Faculties teaching in Government Colleges, but no provision is carved out for Teachers working in other institutions.

2. The petitioner is not working as Guest Faculty in any college run by the Department of Higher Education, Government of Madhya Pradesh. She is not even employed with the Government of Madhya Pradesh in any



capacity, but is working as Post Graduate Teacher in Kendriya Vidyalaya and is the employee of the Government of India.

3. This Court has considered the issue of those employees seeking benefit of relaxation and reservation as Guest Faculty for regular recruitment in W.P. No.8283/2025 in the following manner:-

"The present petitions have been filed by the Teachers, who state to be working as Guest Faculty in respondent No.4 - Institution and have put to challenge the advertisement dated 30.12.2024 to the extent that in the regular recruitment notified for teaching positions in colleges run by the State Government, Department of Higher Education, a provision has been carved out for granting relaxation in age, reservation and bonus marks for Guest Faculties teaching in Government Colleges, but no such provision has been carved out for the Guest Faculties working in the respondent No.4 - Institution, which is run by the respondent No.5 - Society.

2. It is the case of the petitioners that the petitioners are working in the respondent No.4 - Institution, which is run by respondent No.5 - Society and the said Society has been established by the State Government of Madhya Pradesh and has as members, various authorities of State Government as ex-officio members in official capacity. It is further contended that the respondent No.4 is fully funded by the State Government and it is being run by respondent No.5 - Society in which there is a deep and pervasive control of the State Government, though the said Society is registered under the provisions of M.P. Society Registrickaran Adhiniyam, 1973.

3. It is also contended that as the respondent No.4 - Institution is receiving grant in aid from the State Government and the respondent No.5 - Society running the said institution has deep and pervasive control of the State Government in as much as various officials of the State Government are ex-officio members in the said society, therefore, the discrimination being meted out to the petitioners and not granting benefit of bonus marks, age relaxation and reservation, which is being granted to Guest Faculties working in Government run Colleges, amounts to artificial discrimination and is arbitrary and illegal. It is also contended that it is hit by Article 14 of Constitution of India as there is no rational relation with any objective to be achieved.

4. *Per contra*, it is contended by learned counsel for the respondents that relaxation cannot be claimed as a matter of right and further that the petitioners are not working in any Government College, but their allegation is that they are working in a college, which is run by the Society funded by the State Government. Therefore, since the recruitment is not for the respondent No.4 - Institution, but has been advertised for Government Colleges, therefore, the petitioners are not the persons, who are at the risk of losing their employments upon regular recruitment in the Government run colleges in the State.



Therefore, they cannot claim any right to get any reservation, relaxation, etc. as Guest Faculty in the regular recruitment being carried out in State Government run colleges and they may participate as open candidates without claiming any benefit as Guest Faculty.

5. Upon hearing learned counsel for the rival parties, it is not in dispute that the petitioners are working in respondent No.4 - Institution, which is not a institution run by Higher Education Department of the State Government, but it is run by the Society, which is said to be controlled and funded by the State Government and the petitioners are working in a institution aided and controlled by the State Government, but not in a institution directly run by the State Government. The petitioners have sought similar relaxations as are being granted to Guest Faculties working in Government Colleges.

6. It is not in dispute that grant of any relaxation or concession, is solely in the domain of employer and recruitment policy, selection method and fixation of eligibility criteria is also in the sole domain of the employer. Grant of relaxations etc. are a matter of policy and the Court should not interfere in policy matters in routine course, but only where the policies are found to be discriminatory, arbitrary or unconstitutional in any manner.

7. The question that has been raised before us is the question of artificial discrimination between Guest Faculties working in Government Colleges and Guest Faculties working in respondent No.4 - Institution, which is run by a Society controlled and aided by the State Government. It is settled in law that classification violates the constitutional guarantee of equality only if it is not based on some reasonable basis or if it does not have any reasonable nexus with any lawful object to be achieved.

8. The Constitutional Bench of the Hon'ble Supreme Court in the case of *State of J&K v. Triloki Nath Khosa, (1974) 1 SCC 19* held as under:-

"21. Our reason for saying this is to emphasize that the respondents ought to have furnished particulars as to why, according to them, the classification between diploma-holders and degree-holders is not based on a rational consideration having nexus with the object sought to be achieved. In order to establish that the protection of the equal opportunity clause has been denied to them, it is not enough for the respondents to say that they have been treated differently from others, not even enough that a differential treatment has been accorded to them in comparison with others similarly circumstanced. Discrimination is the essence of classification and does violence to the constitutional guarantee of equality only if it rests on an unreasonable basis. It was therefore incumbent on the respondents to plead and show that the classification of Assistant Engineers into those who hold diplomas and those who hold degrees is unreasonable and bears no rational nexus with its purported object. Rather than do this, the respondents contented themselves by propounding an abstract theory that educational qualifications are germane at the stage of initial recruitment only. Omission to furnish the



necessary particulars was construed by this Court in two cases as indicating that the plea of unlawful discrimination had no basis. [(a) *Katra Educational Society v. State of U. P.* AIR 1966 SC 1307 : (1966) 3 SCR 328, 336-37 : (1967) 1 SCJ 5. (b) *Probhudas Morarjee Rajkotia v. Union of India* AIR 1966 SC 1044, 1047 : (1967) 1 SCJ 52.] Such an infirmity in pleadings led this Court in *State of Madhya Pradesh v. Bhopal Sugar Industries Ltd.* [AIR 1964 SC 1179 : (1964) 6 SCR 846 : (1964) 1 SCJ 555] to remand the matter to the High Court in order to enable the petitioner therein to amend its petition."

9. The recruitment in question has been initiated only for the purpose of recruitment on teaching posts in Government Colleges in Madhya Pradesh. The Teachers so appointed would be posted in any Government run College in the State of Madhya Pradesh and their services would be transferrable to any of such colleges. However, it is not in dispute that their services would not be transferable to the respondent No.4 - Institution, which is run by a Society - respondent No.5. The age relaxation, reservation etc. granted to Guest Faculties working in the Government run Colleges has been carved out with a view to provide avenue for the Guest Faculties working in those colleges, who at the risk of losing their employments because once the regular Assistant Professors take charge on their posts in these colleges, then the persons who are working as Guest Faculties in those colleges would be at risk of losing their employments. The petitioners on the other hand are working in respondent No.4 - Institution and the recruitment in question is not for respondent No.4 - Institution. The petitioners can claim relaxation or concession or reservation when recruitment on regular positions in respondent No.4 - Institution is taken up, however, the recruitment in question has no relativity to the respondent No.4 - Institution. The petitioners have no risk of any adverse affect on their employment by recruitment in Government Colleges on regular positions of Assistant Professors. It is also not in dispute that the respondent Nos.4 and 5 would be at liberty to carry out their own recruitment, whenever if they deem so fit for the teaching positions in the respondent No.4 - Institution and the recruitment in question has no nexus with the respondent No.4 - Institution.

10. The petitioners have never worked in any Government College run by the State Government for which regular recruitment is being carried out by the impugned advertisement. Therefore, they cannot seek any benefit of relaxation, concession or relaxation by virtue of they being Guest Faculty when regular recruitment in Government run Colleges is being taken up. The petitioners are therefore, not entitled to the relief as sought for in the present petitions. The exclusion of the petitioners from the purview of relaxations and reservation for Guest Faculties as made in the advertisement Annexure P-1 does not seem to be arbitrary, illegal or hit by Articles 14 or 16 of the Constitution of India in any manner.

11. Consequently, these petitions stand **dismissed**."

4. Though, R.P. No.591/2025 has been entertained against the said



order, but it is on the question of material being placed on record that regular teachers of higher education department are to be posted in the institution, in which the petitioner therein was working and therefore, the petitioner therein would be at the risk of losing employment as Guest Faculty. However, this case is covered by the principle of law in W.P. No.8283/2025.

5. The petitioner in the present case is also belonging to such class of employee, who are not at the risk of losing their employment and therefore, by following the same legal principle this petition also deserves to be and is hereby **dismissed**.

(SURESH KUMAR KAIT)
CHIEF JUSTICE

(VIVEK JAIN)
JUDGE