

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writs No. 19113/2017

1. Dharmendra Kumar Bhinchar, S/o Rahdeva Ram Bhinchar, B/c Jat , Resident Of Tarpura, Sikar
2. Vikram Singh, S/o Jagdish Prasad, B/c Jat , Resident Of Balaji Ka Nada, Dharamshala Beri Sikar.
3. Surendra Kumar, S/o Awad Dan, B/c Charan , Resident Of Nedwa, Tehsil Ramgarh Shekhawati, Dist. Sikar
4. Manju, W/o Mukesh Kumar, B/c Jat , Resident Of Gothada Bhukran, Via Kudan, Dist. Sikar

----Petitioners

Versus

State Of Rajasthan Through Principal Secretary, Department Of Education , Secretariat, Jaipur.

2. Principal Secretary, Department Of Personnel , State Of Rajasthan, Secretariat, Jaipur.
3. Director, Elementary Education , Rajasthan, Bikaner.
4. National Council For Teachers Education Wing Ii , Hans Bhawan, Bahadur Shah Zafar Marg, New Delhi Through Secretary.
5. Saket Bansal, S/o Madan Bansal, B/c Mahajan , Resident Of Ward No. 32, Bandopal Road, Suratgarh, District Sriganganagar

----Respondents

Connected with

S.B. Civil Writs No. 2902/2018

1. Manju Kumari D/o Phool Chand Dhewa B/c Dhewa , R/o Upo Dudi Nagar, Bhorki, Distt. Jhunjhunu.
2. Dharmendra Kumar Bhinchar S/o Rahdeva Ram Bhinchar, B/c Jat , Resident Of Tarpura, Sikar.
3. Vikram Singh S/o Jagdish Prasad, B/c Jat , Resident Of Balaji Ka Nada, Dharamshala Beri Sikar.

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5. Saket Bansal S/o Madan Bansal, B/c Mahajan , Resident Of Ward No. 32, Bandopal Road, Suratgarh, District Sriganganagar.
6. Vinod Kumar S/o Puranmal
7. Ashish Kumar Joshi S/o Ved Prakash Joshi
9. Rekha Verma D/o Bharat Bhushan Verma
10. Abhilasha Chawla D/o Bherulal Veerwal
11. Kandeep S/o Jawahar Singh
12. Vishram Saini S/o Gopi Lal Saini
13. Akash Deep Sharma S/o Madan Mohan Sharma
14. Dayanand Morya S/o Sita Ram
14. Priyanka Sharma D/o Krishna Gopal Sharma , All R/o Not Known, Hence They May Be Served Through Director Elementary Education, Bikaner.



----Respondents

For Petitioner(s) : Mr. Anoop Dhand
 For Respondent(s) : Mr. A.K. Sharma, Sr. Counsel with Mr. Rachit Sharma, Mr. S.K. Gupta, AAG, Mr. Vigyan Shah, Mr. Shobhit Tiwari, Mr. S.N. Kumawat, Mr. Ripunjay Sharma, Mr. Punit Singhvi, Mr. G.L. Sharma, Mr. Ajay Choudhary, Mr. Laxmi Kant Malpura

HON'BLE MR. JUSTICE VEERENDR SINGH SIRADHANA

Order

21/08/2018

"ONLY A GREAT TEACHER CAN MOULD A GREAT STUDENT"

2. A glance of the well known saying (supra), would reflect the importance of the role of teachers in molding the youth and children of a nation into the worthy citizens of the future. Teachers are often recognized as 'nation builders' for they are

instrumental in shaping the citizens of future of the nation. Thus, tremendous responsibility the teachers are required to shoulder and it needs no further amplification. The quality of education imparted to the future citizens of the nation is dependent on the quality of teachers who are appointed to teach. Hence, in the aforesaid context, education of the teachers in the education system is of a great importance which in turn would be reflected in the development of a country. Education provides opportunities for multi-dimensional development of potentialities in the individuals of the nation who in turn are responsible for development of the nation. Education is a fundamental right of every citizen in India. This is stated as per the 86th Constitution Amendment Act via Article 21A. Thus, it is essential for the country to achieve the object not only "education for all" but "quality education for all".

3. According to Programme in International Student Assessment (PISA), which conducted a survey testing 15 years olds from 74 nations, reflects that Shanghai is at the top in the ranking while Tamil Nadu and Himachal Pradesh, found place at serial number 73 out of 74, only above Kyrgyzstan which has a geographical area less than State of Maharashtra. The poor quality of Indian Education has also been reflected by the Annual Status of Education Report (ASER). According to the report 50% of Class V students cannot read textbooks of Class two standard and 40% of Class V students failed to solve a two digit subtraction. Further, the report also reflected absenteeism of the students to the extent of 50% and the teachers were not far behind with 45% absenteeism. Wipro's Quality Education Study as cited in Mukherjee, which surveyed India's elite schools reflects

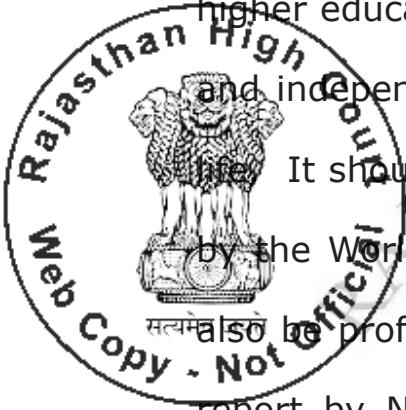


that the learning levels in these schools are not at par with international standards. Thus, conclusions of the aforesaid three reports are clearly indicative of the poor quality of the education in the country. Hence, it goes without saying that the quality of education would be dependent on the quality of teachers.

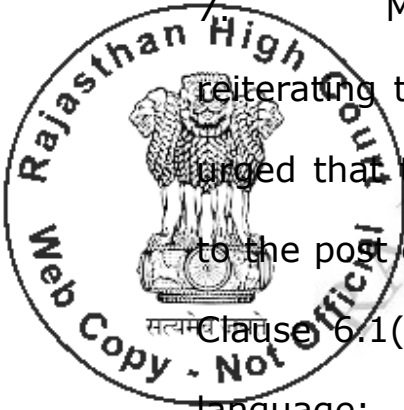
4. Quality criteria must reflect the overall objectives of higher education, notably the aim of cultivating in students critical and independent thought and the capacity of learning throughout life. It should encourage "innovation and diversity" is a statement by the World Conference on Higher Education, 2009. Here, it will also be profitable to take note of the statement made in the final report by National Knowledge Commission-2009, observing that "the training of teachers is a major area of concern at present, since both pre-service and in-service training of school teachers is extremely inadequate and also poorly managed in most states." Thus, only expansion in the teacher education programmes to achieve the target of "reaching the unreached" and "serving the unserved"; the quality of education should not be compromised for often quantity would reflect quality going down, if the expansion is not carried out properly. It is, in this background, I proceed to examine the question raised in the instant batch of writ applications for determination.

5. Whether a candidate is eligible for appointment on the post of language Teacher who did not have that language as optional subject in three year graduation degree course ? Is the question for adjudication in the above noted two writ applications.

6. Shornoff unnecessary details, the essential skeletal materials facts are: that the State-respondents issued advertisement dated 11th September, 2017, inviting applications



from eligible candidates, amending the earlier notification dated 6th July, 2016 (Rajasthan Primary and Upper Primary School Teachers Direct Recruitment- 2016). The participating candidates with corresponding language as an **additional** subject, have also been treated eligible which is the subject matter of assailment in the writ applications.

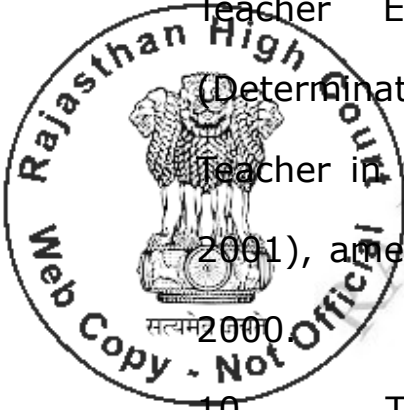


7. Mr. Anoop Dhand, learned counsel for the petitioners reiterating the pleaded facts and grounds of the writ applications urged that the essential educational qualification for appointment to the post of Teacher Grade-III (Level-II), as contemplated under Clause 6.1(B)(iv), in the advertisement, for the teacher of the language; the candidate must have passed graduation or equivalent examination with the corresponding language as an **optional** subject. Thus, according to learned counsel, graduation with the corresponding language as an **optional** subject, is the essential qualification to confer eligibility on the participating candidates and not corresponding language as an **additional** subject.

8. Referring to UGC (Minimum Standards of Instruction for the Grant of First Degree Through Formal Education), Regulations, 2003 (for short, Regulations of 2003), learned counsel would submit that no student would be eligible for the award of the 'First Degree', unless he/she has successfully completed a programme of not less than three year degree duration and secured the minimum number of credits prescribed by the University for award of degree.

9. It is further pointed out that the degree to be awarded may be called the bachelor's degree in the respective discipline in accordance with nomenclature specified by the UGC under Section

22(3) of the UGC Act of 1956. Therefore, inclusion of the candidates, in the recruitment process involved herein, for appointment to the post of Teacher Grade-III (Level-II) (Class VI to VIII), with corresponding language as an **additional** subject; is illegal and contrary to the recruitment rules so also in violation of notification dated 29th July, 2011, issued by National Council for Teacher Education (for short, NCTE), amending NCTE (Determination of Minimum of Qualification in Recruitment of Teacher in School), Regulations, 2001 (for short, Regulations of 2001), amending para 5 of earlier notification dated 23rd August,



10. To substantiate his stand, learned counsel has relied upon the opinion of a Division Bench of Bombay High Court in the case of Vinothan Krishnan Raman Vs. University of Mumbai & Ors.: Writ Petition No. 872/2011, decided on 31st July, 2012, Binod Vikas Manch & Anr. Vs. State of Jharkand & Ors., decided on 6th November, 2003 (2003 (4) JCR 710 Jhr) and judgment dated 14th August, 2012, of the High Court of Madras in the case of R. Thirunavukkarasau Vs. State of Tamil Nadu & Ors. Reference has also been made to opinion of a Division Bench of Delhi High Court in the case of Director of Education and Ors. Vs. Baboo Lal Sharma: Writ Petition (c) No. 5853/2010, decided, along with analogous matters, on 4th October, 2010.

11. In response to notice on writ applications, the State-respondents have filed their counter-affidavit supporting their stand in including the participating candidates with corresponding language as an **additional** subject as eligible for appointment to the post of Teacher Grade-III (Level-II).

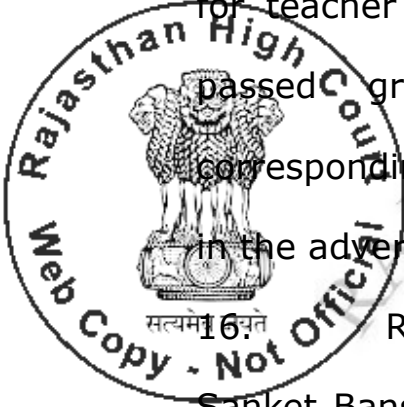
12. Mr. S. K. Gupta, learned Additional Advocate General, on behalf of the State-respondents referring to Clause 7 of the advertisement under 'General Information', pointed out that the advertisement specifically incorporated this condition. Hence, the assailment is absolutely baseless. Further, the petitioners having participated in the recruitment process, well aware of the terms and conditions of the advertisement, are precluded to assail the same.

13. Be that as it may, according to learned counsel, the participating candidates who have acquired the degree of graduation, with the corresponding language as an **additional** subject, cannot be treated ineligible for some of the participants on the basis of that **additional** qualification, have also acquired Master's Degree in corresponding language.

14. Referring to the opinion of the Division Bench of this Court in the case of Sher Singh & Ors. Vs. Dinesh Singh & Ors.: D. B. Special Appeal Writ No. 1464/2016, decided on 27th April, 2017, learned Additional Advocate General would further submit that the amended advertisement, involved herein, was issued keeping in view the observations made by the Division Bench permitting the State-respondents to re-advertise the vacancies, laying down a valid criteria of merit for appointment of Teachers Grade-III (level-II) i.e. for Class VI to VIII afresh, with purpose of selection of teachers in a particular subject. Hence, action of the State-respondents cannot be faulted.

15. It is further pointed out that earlier Rajasthan Eligibility Examination for Teachers (REET), was the sole criteria for appointment of Teachers Grade-III under the Rajasthan Panchayati Raj Rules, 1996 (for short, 'Rules of 1996).

Consequent upon judgment in the case of Sher Singh and Ors. (supra); the existing Clause (3) of Rule 266 of the Rules of 1996, was substituted providing qualifications as laid down by NCTE under the provisions of Sub-section (1) of Section 23 of the Right of Children to Free and Compulsory Education Act, 2009, from time to time and must have passed the REET/RTET. Accordingly, for teacher of the language, the candidate is required to have passed graduation or equivalent examination with the corresponding language as an optional subject; was incorporated in the advertisement dated 11th September, 2017, involved herein.



Referring to mark-sheet of respondent number 6 - Sanket Bansal of BA (additional) Examination, 2015, it is pointed out that Sanket Bansal, acquired the qualification in English Literature with subject code 118, 218 and 318, as an optional subject, after acquiring the **first degree**. Hence, the qualification acquired in the corresponding language as an additional subject, is good and sufficient qualification for appointment to the post of Teacher Grade-III (Level-II).

17. Mr. Vigyan Shah, learned counsel appearing on behalf of the candidates who have been treated eligible with additional subject in the corresponding language, endorsing the stand of Additional Advocate General, would submit that many of the candidates after acquiring degree in the corresponding language as an **additional** subject, have also completed their B.Ed., in the corresponding language (English) so also Masters Degree. Learned counsel further emphasized that a glance of Clause 6.1 (B)(iv), would reflect that the essential qualification for the Teacher of Language, is graduation or equivalent examination with the corresponding language as an optional subject. Thus, the

participating candidates with corresponding language as an **additional** subject, are covered in the alternative clause providing eligibility under Clause 6.1(B)(iv). Reference has also been made to various mark-sheets of such candidates, emphasizing that the participating candidates acquired the qualification as **additional** subject, as optional, within one year after the degree of graduation.



18. Heard the learned counsel for the parties and with their assistance perused the relevant materials available on record as well as gave my thoughtful consideration to the rival submissions at Bar.

19. Indisputably, the amended advertisement dated 11th September, 2017, has been issued by the State-respondents in the backdrop of adjudication by a Division Bench of this Court in the case of Sher Singh & Ors.(supra), wherein the Division Bench emphasizing upon the qualification acquired in the corresponding subject which would ensure acquisition of advanced knowledge and in turn will help in imparting quality education, referring to the case of Binod Vikas Manch (supra), observed thus:-

"33. In the judgment relied upon by learned counsel in the case of Binod Vikash Manch & arr. Vs. State of Jharkhand & ors, decided on 06th November, 2003, the Jharkhand High Court issued certain directions to the respondent State in that case as under:-

"We, therefore, dispose of this writ petition by directing the respondents to ensure that, only those who possess the qualification in the particular subject as indicated are selected and appointed to teach the particular subject. As an illustration, only a teacher who has the requisite qualification in terms of the Rules and who has studied the English language upto the qualification level, should be appointed as a teacher in English. The same will be the position regarding the other subjects. The authorities must also consider the need for introducing English as a subject for these

selection tests taking into consideration the fact that the language is our window to acquisition of advanced knowledge making us competent to compete with the rest of the world in all fields of human activity."

34. Within our Constitution, we have specifically demarcated the ambit of power and boundaries of the three organs of the society by laying down principles of separation of powers which have to be adhered for carrying out democratic functioning of the country. Subordinate legislations are framed by the executive by exercising the delegated powers conferred by the statute which is the rule making power. Thus, it is inappropriate for the Courts to issue a mandate to the State of its authorities to act in a particular fashion and manner. We are afraid that the directions issued by the learned Single Judge would amount to legislate as to how the appointments should be made and what should be the qualification for the post of Teacher in the subjects and what should be the minimum qualification for appointment of a Teacher in a particular subject. However, suffice it to state that the decision to incorporate the marks obtained at various levels to treat a particular individual as eligible for appointment as a Teacher in a particular subject, would solely rest with the Government who may frame rules thereto and this Court cannot embark upon such an exercise.

35. The question, which arises for consideration of this Court, as noted above, is limited to as to how the merit is to be prepared. We find that as per the advertisement, which requires a candidate to have a particular minimum educational qualification and also to have REET eligibility, has decided to prepare merit only on the basis of the marks obtained in the REET which has resulted in causing ambiguity, confusion and administrative chaotic situation where a candidate may be able to secure appointment as a Teacher in a particular subject, even though he may not have studied that subject at all. Such cannot be the purpose of selection and we, therefore, hold that the advertisement condition of preparation of merit itself being vague and contrary to the purpose sought to be achieved, deserves to be set aside and we accordingly do so. It may also be noted that a subject Teacher of level-2 is also entitled for further promotion under the relevant educational service rules in that subject to the level of Teacher Gr. II in order to teach higher classes. If a candidate enters on the lower post, even without having the minimum qualifications in that subject, would amount to resulting in a chaotic situation.



36. The selection on the basis of the condition laid down in the advertisement, therefore, is held to be bad in law and the said criteria is declared as invalid with further directions to the authority to re-advertise the vacancies by preparing a valid criteria of merit for appointment of Teachers for level-2 i.e. for subject Teachers for Classes from VI to VIII afresh keeping in mind the purpose of selection of Teachers in a particular subject."

20. Consequent upon the adjudication by the Division Bench of this Court in the case of Sher Singh & Ors. (supra), the State-respondents amended Clause (3) of Rule 266 of the Rules of 1996, which reads thus:



<p>(3) Primary and Upper Primary School Teacher (100 Percent by direct recruitment)</p> <p>(A) General Education</p> <p>Level-(i) Class I to V</p>	<p>Qualifications as laid down by the National Council for Teacher Education under the provisions of sub-section (1) of section 23 of the Right of Children to Free and Compulsory Education Act 2009 (Central Act. No.35 of 2009), from time to time and must have passed the REET/RTET.</p>
<p>Level-(ii) Class VI to VIII</p>	<p>Qualifications as laid down by the National Council for Teacher Education under the provisions of sub-section (1) of section 23 of the Right of Children to Free and Compulsory Education Act 2009 (Central Act. No.35 of 2009), from time to time,</p> <p style="text-align: center;">and</p>
	<p>(i) for the teacher of Social Science, the candidate must have passed graduation or equivalent examination with at least one subject as an optional subject from amongst History, Geography, Economics, Political Science, Sociology, Public Administration and Philosophy;</p>
	<p>(ii) for the teacher of Mathematics, the candidate must have passed graduation or equivalent examination with Mathematics as an optional subject;</p>
	<p>(iii) for the teacher of Science, the candidate must have passed graduation or equivalent examination with at least one subject as an optional subject from amongst Chemistry, Physics, Botany, Zoology, Micro-Biology, Bio-technology and Bio-chemistry;</p>
	<p>(iv) for the teacher of language, the candidate must have passed graduation or</p>

	equivalent examination with the corresponding language as an optional subject;
	(v) the candidate who has Graduated in Elementary Education (B.El.Ed.) or B.A.B.Ed./B.Sc.B.Ed., i.e. a candidate with the qualification of four years integrated course, must also have passed the qualifying examination with the corresponding subject; and
	(vi) must have passed the REET/RTET in the subject applying for.
(B) Special Education Level-(i) Class I to V	Qualifications as laid down by the National Council for Teacher Education under the provisions fo sub-section (1) of section 23 of the Right of Children to Free and Compulsory Education Act 2009 (Central Act. No. 35 of 2009), from time to time and must have passed the REET/RTET.
	Qualifications as laid down by the National Council for Teacher Education under the provisions fo sub-section (1) of section 23 of the Right of Children to Free and Compulsory Education Act 2009 (Central Act. No. 35 of 2009), from time to time, and
	(i) for the teacher of Social Science, the candidate must have passed graduation or equivalent examination with at least one subject as an optional subject from amongst History, Geography, Economics, Political Science,, Sociology, Public Administration and Philosophy;
	(ii) for the teacher of Mathematics, the candidate must have passed graduation or equivalent examination with Mathematics as an optional subject;
	(iii) for the teacher of Science, the candidate must have passed graduation or equivalent examination with at least one subject as an optional subject from amongst Chemistry, Physics, Botany, Zoology, Micro-Biology, Bio-technology and Bio-chemistry;
	(iv) for the teacher of language, the candidate must have passed graduation or equivalent examination with the corresponding language as an optional subject;
	(v) the candidate who has Graduated in Elementary Education (B.El.Ed.) or



	B.A.B.Ed./B.Sc.B.Ed., i.e. a candidate with the qualification of four years integrated course, must also have passed the qualifying examination with the corresponding subject; and
	(vi) must have passed the REET/RTET in the subject applying for.

21. At this juncture, it will be profitable to take note of the Regulation 8 of the Regulations of 2003, framed by UGC, in exercise of powers conferred by Clause (f) of Sub-section (1) of Section 26 of the UGC Act, 1956, which reads thus:

8.1. No students shall be eligible for the award of the first degree unless he/she has successfully completed a programme, of not less than three years duration and secured the minimum number of credits prescribed by the University for the award of the degree.

8.2 The degree to be awarded may be called the bachelor's degree in the respective discipline in accordance with nomenclature specified by the UGC under Section 22(3) of the UGC Act."

22. In the case of Vinothan Krishnan Raman (supra), a Division Bench of Bombay High Court, declining to recognize the BA Degree conferred upon the petitioner therein by Annamalai University so also the claim to consider mark-sheets received in part first of MA Degree by the petitioner therein (Vinothan Krishnan Raman); considered the matter in the backdrop of Regulations of 2003, framed by UGC and in no uncertain terms observed that under the Regulation of UGC, a person to be eligible for award of First Degree, is required to successfully complete a programme of not less then three years duration. Unless and until, a candidate has pursued First Degree course of three years duration, he would not be eligible for admission to Masters Degree course. Moreover, a candidate who has obtained a Bachelor's or Master's degree in contravention of the UGC Regulations, cannot be regarded as holding a valid degree. The BA degree that was



obtained by the petitioner (Vinothan Krishnan Raman), in one sitting from Annamalai University, did not meet the requirement of UGC Regulations of 2003. Hence, the Court declined to exercise jurisdiction under Article 226 of the Constitution of India to issue any direction contrary to the statutory requirements which hold the field.

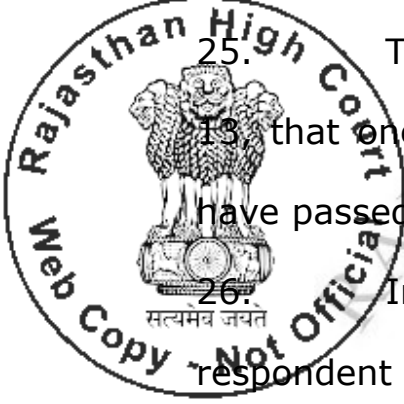
(See definition of First Degree/Graduation).

23. In case of Binod Vikas Manch (supra), the Division Bench of Jharkhand High Court, taking note of text of Article 21A of the Constitution of India, emphasized that it is necessary for the State respondents ensure appointment of Teachers qualified in subject and capable of teaching the subject as language Teacher for we cannot have a Teacher for teaching English and/or Computer Science, unless the Teacher himself is proficient in the subject concerned. Until a Teacher who has the requisite qualification in terms of the Rules and who has studied the English language up to the qualification level, should not be appointed as a Teacher in English.

24. In the case of Director of Education and Ors. (supra), the Division Bench of Delhi High Court while examining the disciplines of education that is subject taught classified into three categories i.e. (i) core subjects, (ii) elective subjects and (iii) mandatory Subjects; posed question in para 7, which reads thus:

"7. Pertaining to the corrigendum the questions which arise and need to be answered are: (i) whether the corrigendum was incorporated formally by amendment of the Recruitment Rules? If yes what was the effect thereof? (ii) if the corrigendum remain as an executive instruction, what was the effect thereof? (iii) whether the corrigendum meant that the subject concerned had to be studied in each year of the three years' graduation course with weighted average of 100 marks. The issues arose, as would be noted hereinafter with reference to

the stand of the petitioner that elective subject meant that the subject had to be studied each year and that the weightage to the subject had to be 100 marks each year pertaining to the graduation course. To put in pithily, if the candidate applied for the post of TGT (History) and did not have the degree of B.A.(Hons.) History, and had a B.A. degree, History as a subject with 100 marks paper in each of the three years of the graduation course was the sine qua non for eligibility. Likewise would be the position for the subjects Hindi and Sanskrit, if the candidate relied upon a B.A. degree."



25. The Division Bench further observed under paragraph 13 that one who has done one year course cannot be stated to have passed degree.

26. In the instant case at hand, from the mark-sheet of respondent No. 5, it is evident that he is in possession of Bachelor's Degree of Science with subject Chemistry, Botany and Bio-Technology. And did B.A (Additional) in English literature. Hence, he has been considered eligible and has been included in the list of eligible candidates, according to his merit, drawn for appointment on the post of Teacher Grade-III Level-II (English).

27. Regulation 2 and 3 of the UGC Regulations of 2003 under the head "Admission" and "Teacher", contemplates thus:

"2. Admission:

2.1 No student shall be eligible for admission to a first degree programme in any of the faculties unless he/she has successfully passed the examination conducted by a Board/University at the +2 level of schooling (either through formal schooling for 12 years, or through open school system) or its equivalent.

2.2 The admission shall be made on merit on the basis of criteria notified by the university, keeping in view the guidelines/norms in this regard issued by the UGC and other statutory bodies concerned and taking into account the reservation policy issued by the government concerned from time to time.

2.3 Student enrollment shall be in accordance with the academic and physical facilities available keeping in mind the norms regarding the student-teacher

ratio, the teaching - non-teaching staff ratio, laboratory, library and such other facilities. The intake capacity shall be determined at least six months in advance by the University/institution through its academic bodies in accordance with the guidelines/norms in this regard issued by the UGC and other statutory bodies concerned so that the same could be suitably incorporated in the admission brochure for the information of all concerned.

2.4 Depending upon the academic and physical facilities available in the institutions, the university may allow an institution to admit a certain number of students directly to the second year of a first degree programme, if the student has either (a) successfully completed the first year of the same programme in another institution, or (b) already successfully completed a first degree programme and is desirous of and academically capable of pursuing another first degree programme in an allied subject.



3. Teacher:

3.1 No person shall be appointed to a teaching post if he/she does not fulfill the minimum qualifications prescribed for recruitment as per the Regulations in this regard notified from time to time under Section 26 (1)(e) of the UGC Act, 1956.

3.2 Every teacher shall participate in teaching, which may include any or all of the following: lectures, tutorials, laboratory sessions, seminars, fieldwork, projects and other such activities.

3.3 Every teacher shall also give general assistance to students in removing their academic difficulties; and participate in the invigilation and evaluation work connected with tests/examinations; and take part in extra-curricular, co-curricular and institutional support activities as required.

3.4 The workload of a teacher shall take into account activities such as teaching, research and extension, preparation of lessons, evaluation of assignments and term papers, supervision of fieldwork as also guidance of project work done by the students. The time spend on extension work, if it forms an integral part of the prescribed course, shall count towards the teaching load. The total workload for the various components shall be in accordance with the guidelines issued by the UGC and the other statutory bodies concerned in this regard from time to time."

28. In the case of R. Thirunavukkarasau (supra), while dealing with somewhat similar controversy in the backdrop of Regulations 2 and 3 (supra), under paragraph 18 and 19, the Court observed thus:-

"18. In exercise of the powers conferred by Section 26(1) (f) of the Act, the Commission issued 2 sets of Regulations. One relates to formal education and another relates to non formal education. Regulation 2 of the Regulations relating to formal education known as "University Grants Commission (The Minimum Standards of Instructions for the Grant of the First Degree through Formal Education in the Faculties of Arts, Humanities, Fine Arts, Music, Social Sciences, Commerce and Sciences) Regulations 1985 contain a series of prescriptions. Regulation 2 reads as follows:-



2. Admission/Students.--(1) No student shall be eligible for admission to the first Degree Course in these faculties unless he has successfully completed 12 years schooling through an examination conducted by a Board/University. The admission shall be made on merit on the basis of criteria notified by the institutions after taking into account the reservation order issued by to Government from time to time.

(2) Student enrolment shall be in accordance with the number of teachers and physical facilities available.

(3) No student shall be eligible for the award of the first degree unless he has successfully completed a three year course; this degree may be called the B.A./B.Sc./ B.Com. (General/Honours/Special) degree as the case may be:

Provided no student shall be eligible to seek admission to the Master's Course in these faculties, who has not successfully pursued the first Degree Course of three years' duration:

Provided further that, as a transitory measure where the Universities are unable to change over to a three year degree course, they may award a B.A/B.Sc./ B.Com.(Pass) degree on successful completion of two year course, but that no student of this stream shall be eligible for admission to the Master's course unless he has undergone further one year bridge course and passed the same. The three year degree course after 10+2 stage should in no case be termed as B.A./B.Sc./B.Com.(Pass) degree.

19. A careful reading of Regulation 2 would show that it contains the following prescriptions:-

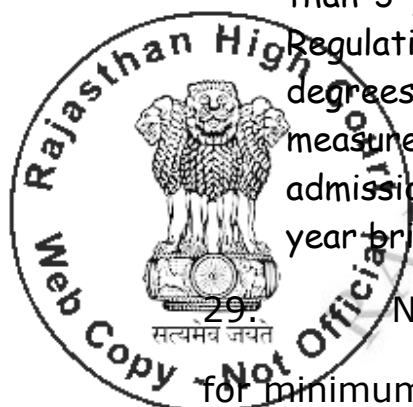
(i) that a student cannot be admitted to the first degree course unless he has successfully completed 12 years of schooling;

(ii) that no student will be eligible for the award of the first degree unless he has successfully completed a 3 year course;

(iii) that a student cannot seek admission to the Master's Course in any of the faculties, unless he has successfully pursued the first degree course of 3 years duration; and

(iv) that wherever a degree course of a duration of less than 3 years was in existence at the time when the 1985

Regulations were promulgated, these institutions can award degrees of a duration of 2 years, only as a transitory measure. However, these persons will be eligible for admission to a Master's Course only if they undergo a one year bridge course."



NCTE Regulations of 2001, under first schedule provide for minimum academic and professional qualifications in each level

of schooling, which reads thus:-

"III. Elementary

(a) Primary	(i) Senior Secondary School Certificate or Intermediate or its equivalent; and (ii) Diploma or Certificate in basic teachers' training of a duration of not less than two years. OR Bachelor of Elementary Education (B.El.Ed.)
(B) Upper Primary (Middle school section)	(i) Senior Secondary School Certificate or Intermediate or its equivalent; and (ii) Diploma or Certificate in elementary teachers training of a duration of not less than two years OR Graduate with Bachelor of Education (B.Ed.) or its equivalent."

30. Under Section 23 (1) read with Section 29 (1) of the Act of 2009, any person, in possession of minimum qualifications laid down by an Academic Authority authorized by Central

Government by notification, shall be eligible for appointment as a 'Teacher'. The curriculum and evaluation procedure for elementary education has to be provided by an Academic Authority, and therefore, the claim has been staked that the participating candidates who are already graduates in some discipline with an additional degree in another discipline, would be eligible for appointment. The plea finds a complete answer for what has been

considered and adjudicated upon in the case of R.

Thirunavukkarasu (supra), under paragraph 37, observing thus:

"37. Therefore, on the basis of the above, it is contended that the contesting respondents, who are already graduates in some discipline with an additional degree in another discipline, are competent to be appointed to the post of B.T. Assistants. But the said contention is wholly misconceived. There are 3 reasons for my above conclusion. They are:-

(i) Primarily, the National Council and the NCTE Act, are concerned with teacher education and not the recruitment of teachers to schools;

(ii) In any event, what is prescribed in the First Schedule is only "minimum academic and professional qualifications". Therefore, the power of the State to prescribe an additional qualification apart from the minimum prescribed in the First Schedule to the NCTE 2001 Regulations, is not taken away by these Regulations. Once the State takes a stand that the expression "Graduate" appearing in the First Schedule to the NCTE Regulations should be understood in a particular way, the contesting respondents cannot contend that it is not in tune with the Act; and

(iii) In any event, the expression "Graduate" appearing in the First Schedule, which I have extracted above, has to be understood as indicating a Graduate in the prescribed or concerned subject. The National Council for Teacher Education Act, the National Council for Teacher Education Rules and the aforesaid Regulations, do not define the expression "Graduate". Even the University Grants Commission Act and the Regulations that I have dealt with in the previous part of this order deal only with the expression "degree" and not the expression "Graduate". Therefore, the expression "graduate" appearing in the First Schedule to the NCTE Regulations is to be synchronised with and understood in tune with the



interpretation given to the expression "degree" in UGC Regulations. In other words, the expression "first degree" used in Regulation 2 of the UGC Regulations signifies "first degree in a subject". Similarly, the expression "graduate" used in First Schedule to NCTE Regulations has to be understood as signifying "Graduate in the concerned subject". To be a graduate in a particular subject, one should have undergone a course of a duration of 3 years, as per the interpretation to be given to the expression "degree" in UGC Regulations. If the State as the employer holds that a Graduate is a person who has obtained a degree of a duration of 3 years, it would be perfectly in tune with the First Schedule to the aforesaid 2001 Regulations of the NCTE and cannot be stated to be opposed to the Regulations. Hence the second contention is also to be rejected."



31. I am in complete agreement with the reasoning as noted and extracted hereinabove, for the term "graduate" would mean and must be interpreted to be "graduate in the concerned subject", and had undergone a course of duration of three years "degree" course in consonance with UGC Regulations. In the face of the fact that respondent No. 5, who is a Science graduate with Chemistry, Botany and Bio-technology, with BA (Additional) in English must have studied a degree of a duration of three years in one year in English language; cannot become eligible for appointment as a Teacher to teach English to the students of Class VI to VIII.

32. In the case of Binod Vikas Manch (supra), the Division Bench of Jharkhand High Court, emphasizing upon the necessary and proficient in the subject to be taught, observed thus:-

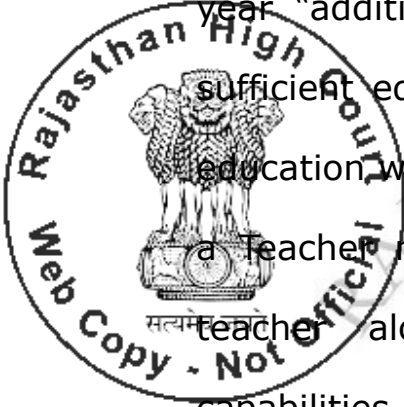
"3. In this situation, it is necessary to direct the respondents to ensure that only teachers qualified in English and capable of teaching English are appointed as language teachers to teach English. This will be the same for other languages and/or subjects inasmuch as a person must have the necessary educational qualification in that language or subject and must have competence to teach that language or subject before he can be appointed to

teach that subject. As counsel pointed out, we cannot have a teacher for teaching computer science unless the teacher is proficient in that subject. It is in that situation, that we feel justified in issuing a direction to the respondents in that regard."

33. Diluting the educational standards and allowing the candidates for appointment as teachers of the subject which they have not studied as "optional for three years" and treating one year "additional degree" in the subject concerned as good and sufficient educational qualification would destroy the standard of education, whatever of it is left. Extremely, important is the role of a teacher not only in the society but also to the nation for a teacher alone can inculcate goods skills and intellectual capabilities in the students. A teacher imparts not only knowledge but also awakens the child to cultural and moral values with scientific temperament. Teacher is the person who molds the career, character and moral fiber with scientific approach in the young minds. Hence, a teacher who himself has not studied the subject which he is to teach; if appointed would be damaging to the very concept of quality education. A teacher is often called nation builder for he is the one who molds the young minds. Hence, quality of a teacher is directly proportional to quality education. Untrained or ill-trained teacher in the concerned subject, will be detrimental to the entire education system which in turn will be an irreparable loss to the nation. Therefore, need for quality teachers, who have studied the subject which they are supposed to teach is, *sine qua non* for quality education.

34. For the reasons and discussions aforesaid, the writ applications succeed and are hereby allowed.

35. In the result, the State-respondents are directed to exclude the participating candidates from the select list with



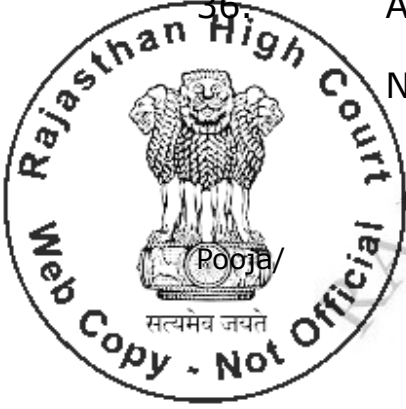
degree acquired as "additional" in the concerned subject. The candidates who are in possession of graduate degree with optional subject of three years Bachelor's degree with English as an optional subject in all the three years, should only be treated as eligible and entitled for appointment to the post of Teacher Grade-III Level-II (English), as per their merit.

36.

A copy of this order be placed in each of the file.

No Costs.

(VEERENDR SINGH SIRADHANA),J



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