**IN THE HIGH COURT OF ORISSA**

W.P. (C) No. 6796 of 2011

Decided On: 10.05.2011

Appellants: **Swarnarekha Rout & Ors.**
**Vs.**
Respondent: **State of Orissa & Ors.**

**Hon'ble Judges/Coram:**
M.M. Das, J.

**JUDGMENT**

**M.M. Das, J.**

1. Since all the aforesaid writ petitions involve similar questions of fact and law, they were heard together and are disposed of by this common judgment.

2. In the aforesaid writ petitions, a common question has been raised by the petitioners, i.e., ignoring their cases/applications for appointment as Sikhya Sahayaks in the districts of Keonjhar, Dhenkanal and Jajpur on the ground that the B.Ed, degree obtained by them known as "Sikhya Sastri Degree" cannot be considered to be B.Ed, degree for the purpose of being considered for appointment as Sikhya Sahayaks.

3. Learned counsel for the petitioners submitted that the petitioners were applicants for being appointed as Trained Graduate Arts teachers, pursuant to the advertisement made in respect of the above districts in the daily Oriya newspaper. The eligibility criteria in the said advertisement, which have been annexed to the writ petition with regard to Trained Graduate Arts teachers is that a candidate should have obtained Bachelor of Arts Degree (B.A. Degree) or any equivalent degree having Oriya as a subject till matric and B.Ed, training recognized by N.C.T.E.

4. It appears from the facts of the case and the materials produced that pursuant to the order dated 29.6.2010 passed in W.P. (C) No. 1361 of 2010 along with a batch of similar matters, the notification dated 19.11.2009 and the consequential advertisement made by the Government for appointment of Sikhya Sahayaks stood quashed and the direction issued by this Court that the Government shall take immediate steps for recruitment of such teachers (Sikhya Sahayaks) strictly in accordance with the existing rules after ascertaining the exact number of different types of teachers required to be recruited in the various schools already existing or to be opened/upgraded as proposed the Government took a resolution on 10.1.2011 considering the fact that the Right of Children to Free and Compulsory Education Act, 2009 came into force with effect from 1.4.2010 and the State Government has framed the rules thereunder which have been operative from 18.10.2010, all the functions of elementary education will be transferred in phases to Zilla Parishad and other Panchayati Raj institutions. The relevant provision of the said policy decision with regard to the eligibility of the teachers to be recruited is as follows:-

6.1. The candidates must have passed +2 Science, Arts/Commerce (or its equivalent examination declared by appropriate authority) and C.T. Training from a recognized Board/University or +2 Science, Arts/Commerce (or its equivalent examination declared by appropriate authority) and 2 year Diploma in Education (Special Education) a course recognized by Rehabilitation Council of India (RCI) or B.A., B.Sc, (or its equivalent examination declared by appropriate authority) and B.Ed, from a recognized University or B.A., B.Sc. and one year B.Ed. (Special Examination) a course recognized by Rehabilitation Council of India (RCI). The +2 candidates must have Odia as a subject up to Class-VII and B.Ed, candidates must have Odia as a subject up to Class-X.

5. The petitioners have prosecuted their course in Sikhya Sastri from Rastriya Sanskrit Sansthan, which has been established under the Ministry of Human Resources Development, Government of India, having a status as Deemed University. The certificates granted to the petitioners mention the degree as B.Ed. It appears that some of the petitioners were also included in the provisional select list. The Government of Orissa, in the School and Mass Education Department, by letter dated 6.4.2002 addressed to all the Collectors under the subject, "Qualification of Sastri and Sikhya Sastri Examination for the purpose of engagement of Educational Volunteers under SSS., EGS, AIE and SSA", intimated the Collectors that the issue regarding equivalence of Sikhya Sastri of Rastriya Sanskrit Sansthan, with that of B.Ed, examination of Utkal University has been brought to the notice of the Government. The Utkal University has clarified that Sikhya Sastri Examination of the said institution is recognized as equivalent to B.Ed, examination of Utkal University on reciprocal basis. The Collectors were, therefore, informed that wherever the Village Education Committee chooses to engage a person with Sastri and Sikhya Sastri qualification, such option should also be taken into consideration subject to the other conditions contained in the guidelines. However, the said direction was issued for a limited purpose of engagement of Education Volunteers and was not made applicable for regular teachers or any other purpose. The above instruction of the Government was considered by this Court in W.P. (C) No. 10653 of 2003. This Court disposed of the said writ petition by order dated 3.11.2004 observing as follows:-

A degree obtained from one University if recognized by another University to be equivalent to a degree of that University, such equivalence should be for all purposes and it cannot be said that for some purpose Sikhya Sastri degree will be held to be equivalent to B.Ed, degree of Utkal University and for other purposes, it should be held not equivalent to B.Ed, degree.

6. The NCTE by a public notice has recognized the institutions of the State which are affiliated to the Rastriya Sanskrit Sansthan with regard to imparting Sikhya Sastri course to the students as per the resolution of the Eastern Regional Committee of the NCTE on 12.7.2004. The Utkal University, as already stated above, has also recognized the Sikhya Sastri degree to be equivalent to B.Ed, degree.

7. In the counter affidavit filed by the School and Mass Education Department, the prayer made by the petitioners has been vehemently opposed on the ground that the advertisement did not provide in the eligibility criteria that a Trained Graduate Arts teacher can have B.Ed. degree or any equivalent degree. According to the learned counsel for the Department, as decided by this Court in the case of Madhusudan Sahu v. State of Orissa and others,  : 2010 (I) OLR 22, the candidates must follow the advertisement and no candidate can claim any right of his own choice beyond the stipulation of the advertisement. The other contention raised on behalf of the Department was that the schools required trained Arts graduate teachers and the candidates having Sikhya Sastri degree though may be considered to be a Trained Graduate, but they have not obtained the B.Ed, degree in respect of other subjects except Sanskrit inasmuch as Sanskrit trained teachers are not required to be recruited. A syllabus of Sikhya Sastri Course was produced before me from which it is revealed that the candidates prosecuting Sikhya Sastri course have to study various subjects including method of teaching for which the prescribed books are written in English and the medium of teaching of those subjects like, English, History, Economics, Geography, Civics etc. appear to be in English considering the text books prescribed.

8. Therefore, in view of conclusion of this Court in the order dated 3.11.2004 passed in W.P. (C) No. 10653 of 2003 that a degree cannot be construed to be equivalent to another degree only for limited purposes and not equivalent for other purpose, as well as considering the fact that some of the petitioners have graduated themselves in B.Ed, course from the University of, the State and thereafter, have obtained the Sikhya Sastri degree, which has already been held to be equivalent to B.Ed, degree for all purposes, the cases of such petitioners could not have been ignored while considering them for appointment in the Trained Graduate Arts posts, more so when, the NCTE has recognized the same, which also was prescribed in the advertisement.

9. As it is submitted by the petitioners that in spite of the interim orders passed by this Court staying further appointment to such posts, some appointments have been made after the interim order was passed, if such allegation is true, persons appointed after the interim order was passed cannot be considered to have been validly appointed. However, the appointments made prior to the passing of the interim order will not be invalidated on any ground as a right has accrued in favour of such appointees by the date the interim order was passed and such persons have not been impleaded as parties to these writ petitions.

10. In conclusion, therefore, the petitioners in the aforesaid writ petitions, who have acquired B.A. degree from an University and thereafter have acquired Sikhya Sastri degree, shall be considered for the post of Trained Graduate Arts teachers in the aforesaid three districts.

11. Since the process of appointment is in progress, necessary steps for consideration of the case of the petitioners and others having acquired B.A. degree from an University and, thereafter, Sikhya Sastri degree, shall be considered for such appointment along with other left out applicants within a period of three weeks from today.

12. With the aforesaid directions, the writ petitions are disposed of. There shall be no order as to costs. The interim order passed earlier stands vacated.