



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P(C) No. 3294 of 2017

***Karunakar Parida and
Others***

....

Petitioners

Mr. S. Samal, Advocate

-versus-

State of Odisha & Others

....

Opp. Parties

Mr. S.B. Mohanty, AGA

CORAM:

THE HON'BLE MR. JUSTICE CHITTARANJAN DASH

ORDER

20.03.2026

Order No.

02. 1. By means of this application, the Petitioners assail the Notification dated 26.12.2016 issued by the School and Mass Education Department, whereby, inter alia, the upper age limit for engagement to the post of Sikshya Sahayak has been prescribed as 32 years along with the stipulation of minimum percentage of marks at the graduation level.
2. The factual matrix of the case, in brief, is that the Petitioners, being duly qualified with B.Ed. and having cleared the Odisha Teachers Eligibility Test (OTET), claim eligibility for engagement as Sikshya Sahayak under the prevailing guidelines, which, from the inception of the scheme in the year 2000 till August, 2013, prescribed the upper age limit as 42 years. The Right of Children to Free and



Compulsory Education Act, 2009 came into force on 26.08.2010, followed by the Orissa Rules, 2010 notified on 27.09.2010 and the NCTE notification dated 25.08.2010 prescribing minimum qualifications, all of which the Petitioners satisfy. While the matter stood thus, Opp. Party No.1 issued Resolution dated 26.12.2016 reducing the upper age limit to 32 years and prescribing minimum marks in graduation. Pursuant thereto, steps were taken on 27.12.2016 to publish advertisements for filling up vacancies, many of which pertained to earlier years when the upper age limit was 42 years. By application of the said Resolution, the Petitioners became ineligible to participate in the selection process. It is further the case of the Petitioners that despite availability of vacancies and earlier observations of this Court dated 02.03.2015 regarding fixation of upper age limit at 42 years, the Opp. Parties altered the eligibility criteria, thereby depriving the Petitioners of the opportunity to participate in the recruitment process. Aggrieved thereby, the Petitioners filed the present writ petition on 22.02.2017 challenging the Resolution dated 26.12.2016 and the consequential recruitment process.

3. Learned counsel appearing for the Petitioners submitted that the impugned Resolution suffers from arbitrariness inasmuch as it retrospectively alters the eligibility conditions governing vacancies pertaining to earlier



years. It was contended that the Petitioners, being otherwise qualified, had a legitimate expectation to be considered in terms of the earlier guidelines prescribing the upper age limit as 42 years. It was further submitted that the reduction of the upper age limit to 32 years and prescription of minimum marks in graduation is violative of Articles 14 and 16 of the Constitution of India.

4. Per contra, learned Additional Government Advocate submitted that the impugned notification, being lawful and issued in consonance with the governing statutory framework, calls for no interference under Articles 226 and 227 of the Constitution of India.

5. Upon consideration of the rival submissions, this Court finds that the issue raised in the present Writ Petition is no longer res integra and stands squarely covered by the order passed in W.P.(C) No.14902 of 2017, wherein it has been held that the prescription of the upper age limit of 32 years under the Resolution dated 26.12.2016 was in conformity with the statutory Rules, namely, the Orissa Civil Service (Fixation of Upper Age Limit) Rules, 1989, governing the field at the relevant time. It has been categorically observed that unless the statutory Rules fixing the upper age limit are themselves put to challenge and declared invalid, no direction can be issued to prescribe an age limit inconsistent with such Rules.



6. It is further observed in W.P.(C) No.3291 of 2017 that a mere expectation on the part of a candidate, even if based upon earlier notifications or past practice, does not confer any enforceable right to challenge a subsequent notification. Legitimate expectation cannot override statutory provisions governing public employment. Once the eligibility criteria are prescribed in accordance with the prevailing statutory framework, the same must be given effect to.

7. In the present case, the recruitment process pertains to the year 2016-2017 and considerable time has elapsed thereafter. The relief sought by the Petitioners has thus become academic in nature and incapable of practical enforcement.

8. In view of the foregoing discussion, this Court finds no justifiable ground to interfere with the impugned Resolution or to grant the reliefs as prayed for.

9. Accordingly, the Writ Petition stands dismissed.

(Chittaranjan Dash)
Judge

Sarbani

