

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 18223/2022

1. Mahesh Kumar Yadav S/o Bhairulal Yadav, R/o 181, Shyam Vihar Extension, Near Saint Thomas School, Girdharipura, Ajmer Road, Jaipur (Raj.)
2. Kamlesh Kumar Saini S/o Kanaram Saini, R/o Ward No. 19, Sri Madhopur, Sikar (Raj.)
3. Vijay Kumar Yadav S/o Radheyshyam Yadav, R/o 12-B, Chandanbari, Kalwar Road, Jaipur. (Raj.)
4. Suman Yadav D/o Satya Narayan Yadav, R/o A-24, Kalwar Road, Chandanbari, Jaipur (Raj.)
5. Mamta Saini D/o Phool Chand Saini, R/o Ward No. 6, Tehsil Khandela, Sikar (Raj.)
6. Rakesh Kumar Yadav S/o Mangilal Yadav, R/o Mela Ki Dhani, Via Kalwar, Jaipur (Raj.)
7. Hemraj Sunda S/o Madan Lal, R/o Village Prempura, Tehsil Rainwal, Jaipur (Raj.)

-----Petitioners

Versus

1. State Of Rajasthan, Through The Principal Secretary, Medical And Health Department, Govt. Of Rajasthan, Secretariat, Jaipur (Raj.) 302005
2. Director, Medical And Health Department, Govt Of Rajasthan, Behind Secretariat, Ashok Nagar, Tilak Marg, C-Scheme, Jaipur-302007
3. The Secretary, Rajasthan Public Service Commission, Jaipur Road, Ghooghara Ghati, Ajmer (Raj.) 305001
4. The Secretary, Ministry Of Education, Govt. Of India, 122-C, Shashtri Bhawan, Dr. Rajendra Prasad Road, New Dehli-110001
5. The Secretary, University Grants Commission, Bahadur Shah Zafar Marg, New Delhi-110002.

-----Respondents

For Petitioner(s)	:	Mr. Arvind Kumar Sharma, Advocate.
For Respondent(s)	:	Mr. Vigyan Shah, Additional Advocate General.

Mr. Mukesh Kumar Verma, Advocate.
Mr. Yuvraj Samant, Advocate.
Ms. Manjeet Kaur, Advocate.

HON'BLE MR. JUSTICE INDERJEET SINGH
HON'BLE MR. JUSTICE RAVI CHIRANIA

Order

18/02/2026

1. This writ petition has been filed by the petitioner with the following prayers:

"It is, therefore, humbly prayed to kindly accept this writ petition graciously and grant following relief to the humbly petitioners:

i) To kindly call for record of writ petition and may kindly be perused.

ii) To kindly quash and declare unconstitutional the requirement of regular course of MBA/ PGD as provided in impugned Annexure-2 for the purpose of qualification for the post of Hospital Care Taker as amendment by Notification No. F-2(1)DOP/A-II/82 Pt. II Dated 06.01.2022 in scheduled-1 of Rajasthan Medical & Health Subordinate Rules, 1965 and notification dated 06.01.2022 be declared unconstitutional

iii) To kindly issue direction/ order to the respondents to treat distance education mode and/or online mode of MBA/PGD in Hospital Management/ Hospital Administration/ Hospital and Health Care Management Annexure-1 equivalent as per the direction issued by the Central Government in the state of Rajasthan and allow petitioners to participate in the examination of Hospital Care Taker as per advertisement No. 06/ Bharti/ HCT/ MAD & Health/ EP-1/ 2022-23 dated 23.05.2022 treating petitioners at par with the candidates of regular course.

iv) Any other order, direction, relief which this Hon'ble Court deems fit and proper in the interest of justice may also be passed in favour of the petitioner and the cost of Writ Petition may also be awarded."

2. Brief facts of the case are that the petitioners in pursuance of the advertisement dated 23.05.2022 applied for the post of

Hospital Caretaker issued by the Rajasthan Public Service Commission (hereinafter to be referred as 'RPSC'), the qualification prescribed for the said post in the advertisement reads as under:

"शैक्षणिक योग्यता:-

- (i) 1. Graduate from a University established by law in India; and 2. MBA/PGD (two year regular course) in Hospital Management/Hospital Administration/Hospital and Health Care Management from a recognised institute or its equivalent recognised by the State Government.
(ii) Working knowledge of Hindi written in Devnagri Script and knowledge of Rajasthan Centre."

3. Counsel for the petitioners submits that the candidatures of the petitioners have been rejected for the said post by the respondents on the ground that they are not having two years' regular course which was required for the said post although they are having the subject degree through Open and Distance Mode. The counsel challenged the constitutional validity of the Rajasthan Medical & Health Subordinate Service (Amendment) Rules, 2022 issued by the respondents vide notification dated 06.01.2022 whereby the amendment was made in the Schedule—I appended to Rajasthan Medical & Health Subordinate Services Rules, 1965 whereby the qualification for Hospital Caretaker has been prescribed as MBA/PGD (Two Years Regular Course). The petitioners are aggrieved only by the words mentioned as "Two Years Regular Course" by the respondents in the notification.

4. Counsel for the petitioners submits that the qualification held by the petitioners has been recognized by the UGC by issuing public notice. Counsel further submits that once the degree acquired by the petitioners has been recognized by the UGC, the different qualification prescribed by the State is arbitrary and in

violation of Articles 14 and 16 of the Constitution of India. Counsel further submits that the respondents are not considering degrees even issued by the Central University—Indira Gandhi National Open University (IGNOU) for the said course. Counsel prayed for allowing the writ petition.

5. Counsels for the respondents opposed the submissions made on behalf of the petitioners and drew the attention of this Court to

Article 246(3) of the Constitution which reads as under:

"(3) Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List")."

6. Counsels further submit that State Government is having every right to prescribe the educational qualification for the recruitment purpose in view of Entry—41 of List—II—State List of Schedule—7. Counsel further drew the attention to Entry—64 of List-I—Union List of Schedule—7 which relates to professional, vocational and technical training and other courses. Only the Central Government can make law for the said purposes as mentioned in Entry No.64. However, for the recruitment purpose only the State Government is authorized by Entry—41 of List—II—State List of Schedule—7 of the Constitution of India.

7. Counsel for the respondent—UGC filed reply to the writ petition, more particularly, in para no.16 stated as under:

"That the contents of para No. 16 of the writ petition replied in-terms that, according to provision stipulated under Regulation 4 (A) (iv) of UGC (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020:- For the Programmes falling under the ambit of a statutory or regulatory authority or regulatory council, the Higher Educational Institutional Institution has the approval or recommendations of the respective statutory or regulatory authority or regulatory

council for offering the programmes in Open and Distance Learning mode or Online mode, as applicable;

Explanation: Programmes as mentioned at clause (iv) shall be considered only when these are recommended by the respective statutory or regulatory authority or regulatory council to offer in Open and Distance Learning mode or Online mode, as applicable. Also, statutory or regulatory authority or regulatory council shall either maintain the minimum standards for the programmes in Open and Distance Learning mode or Online mode as stipulated in these regulations or set higher standards while making recommendations to the Commission.

The approval for MBA programme falls under the ambit of AICTE. Further, as per Regulation 2(Z) of UGC (Open and Distance Learning Programmes and Online Programmes) Regulation, 2020. Prohibited programmes means such programmes which shall not be permitted to be offered in Open and Distance Learning Mode and Online Mode in Higher Education, as detailed under: (a) The programmes in the disciplines (including their allied domains) of Engineering, Medical, Physiotherapy, Occupational Therapy and other Para-Medical disciplines, Pharmacy, Nursing, Dental, Architecture, Law, Agriculture, Horticulture, Hotel Management, Catering Technology, Culinary Sciences, Aircraft Maintenance, Visual Arts and Sports; (b) The research based programmes such as M.Phil and Ph.D; (c) Such other Programmes not permitted to be offered through Open and Distance Learning mode and/or Online mode by any concerned statutory or regulatory body or council:

Provided that, if the concerned statutory or regulatory body or council permits any of the prohibited programmes, as mentioned above, under its domain, in Open and Distance Learning mode and/or Online mode, the same may be considered by the Commission, and the decision so taken shall be notified by an Order"

8. Counsel for the UGC submits that the on-line courses prescribed by the UGC with the Open and Distance Learning Mode courses have been prohibited such as medical and their allied domains. Counsel takes a specific stand for the UGC that UGC has not recognized the Open and Distance Learning Mode for the subject qualification which is under challenge. Counsel for the respondents relied upon the judgment of the Hon'ble Supreme

Court passed in the matter of 'Gujarat Public Service Commission versus Gnaneshwary Dushyantkumar Shah & Ors.' 2026

Supreme(SC) 77 wherein in Para Nos.16 to 18 it is held as under:

16. The AICTE Regulations and State Rules operate in different field, therefore, the question of one superseding the other does not arise. It is pertinent to note that it is not the case of the candidate that qualification prescribed by the State Government, for the post of Professor is contrary to the AICTE Regulations but the grievance of the candidate is qua the evaluation of criteria of performance of the candidates.

17. The Division Bench of the High Court committed an error in assuming that the AICTE Regulations override the State Recruitment Rules in the matter of initial appointment. The Act does not empower the AICTE, to abolish the State Rules for recruitment in Government Colleges, but empowers it to ensure standard of education and service conditions, particularly for career progression.

18. There is yet another fatal infirmity in the challenge to selection process at the behest of the candidate. The criteria for interview and qualifying marks were expressly stated. The candidate applied, appeared and took her chance. Only after being declared unsuccessful, did she seek to invoke an entirely different regulatory regime. It is a settled principle that a candidate having participated in the process of selection, without protest, cannot challenge the Rules of the game after being declared unsuccessful¹, Anupal Singh Others v. State of Uttar Pradesh, (2020) 2 SCC 173. The Division Bench of the High Court erred in holding that the candidate was not precluded from challenging the process of selection."

9. Counsels submit that according to law laid down by the Hon'ble Supreme Court in the matter of GPSC (supra) only the State Government is having the power to frame rules with regard to recruitment purposes. The instructions/guidelines issued by the AICTE and UGC cannot abolish the State Rules for recruitment. Counsels further relied upon the judgment passed by the Hon'ble Supreme Court in the matter of 'Jaiveer Singh and Others versus

State of Uttarakhand and others* 2024 Vol XV SCC 227 wherein in

Para Nos.51 and 52 it is held as under:

51. It will be relevant to refer to the observations of this Court in Devender Bhaskar v. State of Haryana 18, which read thus: (SCC paras 21-26)

"21. In Mohd. Shujat Ali v. Union of India¹⁹ it was held that the question regarding equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standards and practical attainments of such qualifications. It was further held that where the decision of the Government is based on the recommendation of an expert body, then the Court, uninformed of relevant data and unaided by technical insights necessary for the purpose of determining equivalence, would not lightly disturb the decision of the Government unless it is based on extraneous or irrelevant considerations or actuated mala fides or is irrational and perverse or manifestly wrong.

22. In J. Ranga Swamy v. State of A. P.²⁰ this Court held that it is not for the court to consider the relevance of qualification prescribed for various posts.

23. In State of Rajasthan v. Lata Arun this Court held that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It was held thus: (SCC p. 258, para 13)

"13. From the ratio of the decisions noted above, it is clear that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority."

24. In Guru Nanak Dev University v. Sanjay Kumar Karwaf this Court has reiterated that equivalence is a technical academic matter. It cannot be implied or assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order or resolution, duly published. Dealing specifically with whether a distance education course was equivalent to the degree of MA (English) of the appellant university therein, the Court held that no

material had been produced before it to show that the distance education course had been recognised as such.

25. In Zahoor Ahmad Rather v. Imtiyaz Ahmad, it was held that the State, as an employer, is entitled to prescribe qualifications as a condition of eligibility, after taking into consideration the nature of the job, the aptitude required for efficient discharge of duties, functionality of various qualifications, course content leading up to the acquisition of various qualifications, etc. Judicial review can neither expand the ambit of the prescribed qualifications nor decide the equivalence of the prescribed qualifications with any other given qualification. Equivalence of a qualification is a matter for the State, as recruiting authority, to determine.

26. Having regard to the above, in our view, the High Court has erred in holding that the diploma/degree in Art and Craft given by the Kurukshetra University is equivalent to two-year Diploma in Art and Craft examination conducted by the Haryana Industrial Training Department or Diploma in Art and Craft conducted by Director, Industrial Training and Vocational Education, Haryana."

52. In view of what has been held by this Court hereinabove, we find that the High Court erred in holding that 18 months' Diploma conducted by NIOS through ODL mode is equivalent to the 2 years' regular diploma, particularly so, when there was no material placed on record to even remotely hold that such a qualification was recommended by the expert body NCTE. On the contrary, the communication dated 6-9-2019 of NCTE, the directives of MHRD so also the recognition order dated 22-9-2017 clearly go on to show that the 18 months' Diploma was provided as a one-time window to the in-service teachers to acquire the minimum qualifications between the 2017 Amendment Act and the outer limit of 1-4-2019. In our considered view, the High Court has totally erred in holding that the 2 years' Diploma is equivalent to 18 months' Diploma."

10. Counsel further submits that when the expert bodies like AICTE and UGC have not recognized the course taken by the

petitioners then they are estopped to challenge the validity of the rules also.

11. Heard counsel for the parties and perused the record.

12. This writ petition filed on behalf of the petitioners deserves to be dismissed for the reasons; firstly, the petitioners have challenged the validity of the Rules which have been framed by the State Government for the recruitment. However, the petitioners have failed to show that the State Government is not competent to make recruitment rules.

13. The validity of the rule can be challenged only on the ground of incompetence and arbitrariness and a violation of principle of natural justice which has not been established by the writ—petitioners in this writ petition and also in view of the judgment passed in the matter of GPSC (supra), we are of the view that the petitioners have failed to establish their case by providing sufficient documents to show that they are having a valid degree.

14. Lastly, as per Article 47 of the Constitution of India, the State is bound to ensure better healthcare facility in the State of Rajasthan. Therefore, since the matter relates to appointment on the post of Hospital Caretaker, we see no reason to interfere with the writ petition.

15. In view of above discussion, the present writ petition is dismissed.

(RAVI CHIRANIA),J

(INDERJEET SINGH),J