

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 8145/2013

STATE OF MANIPUR & ORS.

APPELLANT(S)

Versus

PHIJAM GAJENDRA SINGH & ORS.

RESPONDENT(S)

WITH

C.A. No. 8146/2013
C.A. No. 8147/2013
C.A. No. 8148/2013
C.A. No. 8149/2013
C.A. No. 8150/2013
T.P.(C) No. 145/2014

O R D E R

Issue raised in these appeals relates to the validity of advertisement dated 18.10.2011 issued by the Government of Manipur for recruitment of 1951 primary teachers under *Sarva Shiksha Abhiyan* (for short 'SSA'). The High Court upheld the challenge to the validity of the said advertisement and quashed the select panel prepared in pursuance thereof, and directed the State to publish fresh advertisement for selection out of the candidates, who were qualified as on 28.10.2011 and thereafter to complete the exercise of selection.

During the pendency of the matter in this Court, an interim order dated 06.09.2013 was passed, which inter alia provides, as follows:

"In the meanwhile, there will be stay of the impugned order passed by the High Court and it will be open to the State Government to proceed to appoint the teachers on the basis of the marks received and the ranking in the Teachers Eligibility Test."

This Court has been informed that appointment of 1850 primary teachers stood effected on 14.09.2012 and the said teachers have already completed two years of service and they have also undergone prescribed training for six months. In these circumstances, there will be great hardship if the view taken by the High Court is upheld. Learned counsel for the writ petitioners submit that the High Court was justified in quashing the advertisement for recruitment and consequential selection and even if this Court does not invalidate the appointments already made, their claim can be satisfied if they are directed to be considered against the available vacancies which are more than one hundred.

We have considered the rival submissions.

We may briefly advert to the background in which the issue has arisen for consideration.

Free and compulsory education to the children up to the age of 14 years is the mandate of the Constitution of India, which has now been incorporated in the form of Article 21A of the Constitution. To give effect to the said mandate, The Right of Children to Free and Compulsory Education Act, 2009 (for short 'the Act') has been enacted. The Act casts responsibility on the appropriate government and the local authorities to establish schools and also casts responsibility for providing funds for availability of schools for every child.

Section 23 of the Act provides for prescribing minimum qualifications for appointment of a teacher and terms and conditions of service of teachers. The Central Government, under Section 23(2) of the Act, is empowered to relax the prescribed minimum qualifications up to five years.

The Central Government has laid down the minimum qualifications for appointment as a teacher, vide notification dated 23.08.2010, for teachers for classes I-V, with which we are concerned. Apart from

educational qualification of senior secondary with 50% marks, a diploma/degree in Elementary Education and passing of Teacher Eligibility Test (for short 'TET') are required. The said notification was amended on 29.07.2011.

In exercise of its power under Section 23(2) of the Act, vide notification dated 15.07.2011, the Central Government relaxed the requirement of diploma/degree in Elementary Education subject to the condition that priority will be given to those who possess the minimum qualifications as laid down and thereafter the eligible candidates with the relaxed qualifications will be considered.

In spite of the above undisputed factual position, the impugned notification dated 18.10.2011 did not provide for giving priority to the eligible candidates, which was one of the objections raised by the writ petitioners before the High Court. The objection has been upheld by the High Court. The High Court observed as under:

"62. While rejecting the contention of Mr. Rarry, learned counsel for some of the private respondents that para-3 of the principal notification dated 23.08.2010 is not part of the minimum qualification, this Court declares that

the candidates with B.A./B.Sc. with at least 50% marks and B.Ed. qualification shall be eligible for appointment for Classes I to V up to 1st January, 2012 provided he undergoes after appointment an NCTE recognised six months special programme in Elementary Education. As the Recruitment Advertisement vide Notification dated 18.10.2011 (Annexure A/3 to the writ petition, being W.P.(C) No. 149/2012) provides the last date for receiving the application from the eligible candidates on 03.11.2011, the persons who were having the said qualification as provided in para-3 of the principal Notification dated 23.08.2010 as published in the Gazette of India dated 25.08.2010 shall also be considered within the category of the persons having the minimum qualifications and they shall be allowed to apply for the post of Primary Teachers under the SSA and their cases would be considered within the category of the persons having the minimum qualification."

In view of the fact that the State has already given appointment and by interim order this Court permitted the State to go ahead, we modify the impugned order and refrain from interfering with the appointments already made. We direct that the claim of the writ petitioners, who are eligible and do not require any relaxation in the prescribed qualifications be considered against the available vacancies and appropriate further action be taken in this regard within six weeks from the date of receipt of the copy of this order. They will be entitled to priority in accordance with the notification dated

15.07.2011 issued by the Central Government under Section 23(2) of the Act, but they will be entitled to financial benefit only from the date of joining, but their seniority must be considered from the date of their entitlement on the basis of priority right conferred upon them under notifications and their seniority be fixed accordingly as per the seniority rules and law on this aspect of the case after considering their claim as directed above.

The appeals stand disposed of in terms of the aforesaid directions.

No other issues have been raised before this Court.

In view of the above, no order is required to be passed on the transfer petition, which also stands disposed of.

.....J.
(V. GOPALA GOWDA)

.....J.
(ADARSH KUMAR GOEL)

NEW DELHI,
SEPTEMBER 24, 2014

ITEM NO.1

COURT NO.14

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 8145/2013

STATE OF MANIPUR & ORS.

Appellant(s)

VERSUS

PHIJAM GAJENDRA SINGH & ORS.

Respondent(s)

(with interim relief and office report)

WITH

C.A. No. 8146/2013

(With Interim Relief and Office Report)

C.A. No. 8147/2013

(With Interim Relief)

C.A. No. 8148/2013

(With Interim Relief and Office Report)

C.A. No. 8149/2013

(With Interim Relief and Office Report)

C.A. No. 8150/2013

(With Interim Relief and Office Report)

T.P.(C) No. 145/2014

(With Office Report)

Date : 24/09/2014 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Appellant(s)

Petitioner in

TP(C)No.145/2014

Mr. R. Basanth, Sr. Adv.

Mr. Pratik B. Adv.

Mr. Abdulrahiman T., Adv.

Ms. Momota Devi Oinam, Adv.

Appellant in

CA No.8145/2013

Mr. S.P. Singh, Sr. Adv.

Mr. Sapan Biswajit, Adv.

Mr. Khwairakpam Nobin Singh, Adv.

Appellant in Mr. Rarry Mangsatabam, Adv.
CA No.8147-8150 Mr. Rameshwar Prasad Goyal,Adv.
of 2013 Mr. Satyender Kr. Singh, Adv.

For Respondent(s) Mr. Gurukrishna Kumar, Sr.Adv.
 Mr. Gaurav Agrawal,Adv.

Resp.in C.A.No. Ms. Momota Devi Oinam,Adv.
8145/2013 Mr. Lenin Singh Hijam, Adv.

Resp.in TP(C) Mr. S. K. Bhattacharya,Adv.
145/2014 Mr. L.K. Paonam, Adv.
 Mr. Niraj Bobby Paonam, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeals as well as the transfer petition are disposed of
in terms of the signed order.

(VINOD KUMAR)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

(Signed order is placed on the file)