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Court : Allahabad

Decided On : Oct-25-2010

Judge : V.K.Shukla, J.

Appeal No. : Civil Misc. Writ Petition No. 63689 of 2010

Appellant : Arvind Kumar Sharma and Others.

Respondent : State of U.P. and Others

Advocate for Pet/Ap. : Sri. Vinod Sinha

Judgement :

1. Petitioners have approached this Court questioning the validity of the notification dated 23.08.2010 wherein National Council for Teacher Education New Delhi has provided minimum 50% marks in B.A./B.Sc. and B.Ed examination for the purpose of appointment as Assistant Teacher in Class I to 8 .

2. Petitioners have tried to contend before this Court that such fixation of criteria of minimum marks is arbitrary, unreasonable and no object whatsoever would be achieved. Petitioners have further contended that net effect of the notification dated 23.08.2010 is that candidate who have already passed B.A/B.Sc and B.Ed examination with less than 50% will not be considered for appointment consequently their career and future will be jeopardised. With these grievances present writ petition has been filed.

3. Sri Vinod Sinha, learned counsel for the petitioner contended with vehemence that fixation of marks of 50% of B.A./B.Sc. and B.Ed examination for the purposes of appointment as Assistant Teacher is arbitrary and unreasonable and same are liable to be stuck down.

4. Learned Standing counsel on the other hand contended that National Council for Teacher Education, New Delhi in exercise of its authority vested under Act No. 35 of 2009 is custodian of fixation of eligibility criteria in respect of selection and appointment of Assistant Teacher, in such a situation and in this background eligibility criteria has been provided to maintain standard of Education as such no interference be made.

5. In the present case National Council for Teacher Education in exercise of its statutory authority has proceeded to fix minimum eligibility criteria for being appointed as Assistant Teacher. Once expert body in exercise of its statutory authority vested under Sub-section (1) of Section 23 of the Act Right of Children for Free and Compulsory Education Act 2009 has introduced fixing minimum qualification of person to be eligible for teaching Class I to 8 then merely because petitioners have got no chance to be considered the provisions cannot be termed to be arbitrary. Legislative competence is there and expert body has proceeded to fix eligibility criteria looking into the requirement.

6. Hon'ble Apex Court in the case of Yogesh Kumar v. NCT New Delhi AIR 2003 SC 1241; P.M. Latha v. State of Kerla 2003 (3) SCC 541 has taken the view that it is sole prerogative of the employer to fix eligibility criteria, keeping in view its requirement and candidate has no say in the matter as to what should be eligibility criteria for appointing candidate as teacher.

7. Once this is factual scenario then there is hardly any scope of interference.

8. Consequently, writ petition as it has been framed and drawn is dismissed.

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