



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 14733/2022

Suman D/o Kistur Chand, Aged About 42 Years, R/o Plot No. 236-A, Bhagat Ki Kothi, Jodhpur, Rajasthan. Presently Posted At Shri Achal Das Bagrecha Government Senior Secondary School, Salawas, District Jodhpur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Department Of School Education, Secretariat, Government Of Rajasthan, Jaipur, Rajasthan.
2. The Principal Secretary, Department Of Finance, Government Secretariat, Government Of Rajasthan, Jaipur, Rajasthan.
3. Director, Secondary Education, Bikaner, District Bikaner, Rajasthan.
4. Commissioner, Rajasthan Council Of School Education, Jhawalal Nehru Marg, Jaipur, Rajasthan.
5. State Project Director, Rajasthan Council Of School Education, Jhawalal Nehru Marg, Jaipur, Rajasthan.
6. Deputy Director, Rashtriya Madhyamik Shiksha Abhiyan, Jaipur, Rajasthan.
7. Additional District Project Coordinator, Rashtriya Madhyamik Shiksha Abhiyan, Jodhpur, Rajasthan.
8. Chief District Education Officer And Ex-Officio, District Project Coordinator, Samagra Siksha Abhiyan, District Jaipur, Rajasthan.
9. Mind Leaders Learning India Private Ltd., Address Lemon Tree Premier, Delhi Airport, Asset No. 6, Aerocity Hospitality, New Delhi 110037 Through Its Director.
10. Principal, Shri Achal Das Bagrecha Government Senior Secondary School, Salawas, District Jodhpur, Rajasthan.

----Respondents

For Petitioner(s) : Mr. Pawan Singh

For Respondent(s) : Mr. P. R. Singh

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
Order

20/09/2023

1. Heard learned counsel for the parties.



2. The present writ petition has been filed with the prayer that the respondents may be directed to continue the petitioner on the post of Vocational Trainer/Teacher (Tourism & Hospitality) and she may not be replaced by another set of Vocational Trainer (Contractual Employee).

3. Briefly, the facts noted in the present writ petition are that the respondent No.5 invited Open Competitive Bid (OCB) for implementation of "Vocationalisation of Secondary and Higher Secondary Education Programme" in 1509 schools and "Vocational Training (for out of school children)" in 11 schools. In pursuance of the Open Competitive Bid made by the respondent No.5, the petitioner, considering herself eligible and possessing the qualification of Senior Secondary, BA & B.Ed., applied for the post of Vocational Trainer in Tourism & Hospitality and got appointment at Shri Achal Das Bagrecha Government Senior Secondary School, Salawas, District Jodhpur. After joining on the post, the petitioner was discharging her duties with utmost satisfaction of the respondents. While the petitioner was discharging her duties, the respondents again invited "Open Competitive Bids (OCB)" on 18.05.2022. In the Bid dated 18.05.2022, the educational qualification prescribed for the post of "Vocational Trainer in the Trade of Tourism & Hospitality Management" was prescribed Diploma/Degree in Hotel Management from a recognized Institute/University, with at least five years' work/teaching experience in Food and Beverage service including one year as supervisory capacity in a classified Hotel or Facility Management Company. The relaxation was provided in the age/experience. The petitioner although applied in pursuance of the bid proceedings dated



18.05.2022, however, her candidature was not considered and was rejected on the ground that she does not possess the requisite qualification to hold the post of "Vocational Trainer/Teacher (Tourism & Hospitality)". Hence, the present writ petition has been filed.

4. Learned counsel for the petitioner vehemently argued that the petitioner was serving the respondents on the post of "Vocational Trainer/Teacher" for last five years and all of a sudden, the educational qualification for the Trade of Tourism & Hospitality has been changed and no relaxation in the educational qualification has been provided by the respondents, therefore, her candidature has wrongly been rejected. Learned counsel further submits that the relaxation in the educational qualification has been provided by the respondents in the Trade of Electronics & Hardware/Electrical & Electronics as well as in the Trade of IT/ITeS, and in these two disciplines, no relaxation has been provided towards age and experience, whereas, in the Trade of Tourism & Hospitality, the respondents have not provided any relaxation in the educational qualification, however, they have given relaxation in the experience and age. Learned counsel, therefore, submits that the respondents may be directed to grant relaxation in the educational qualification in the Trade of Tourism & Hospitality also. He further submits that non grant of relaxation in the educational qualification in the Trade of Tourism & Hospitality is discriminatory as in other trades, the relaxation in the educational qualification has been provided by the respondents. He, therefore, prays that the present writ petition may be allowed



and the petitioner may be given appointment by the respondents on the post of "Vocational Trainer/Teacher (Tourism & Hospitality).

5. Per contra, learned counsel for the respondents submits that the respondents have prescribed the qualifications for the post of "Vocational Trainer/Teacher in consonance with the guidelines issued by PSS Central Institute of Vocational Education, Bhopal.

The respondents after having taken guidance from the PSS Central Institute of Vocational Education (PSSCIVE), Bhopal have framed their own regulations prescribing the requisite educational qualifications and after considering the requirement in each trade, they have granted the relaxation in the Trades which is suitable as per requirements. Learned counsel further submits that even if the petitioner is granted relaxation, she is not fulfilling the basic requirement of holding the Diploma/Degree in Hotel Management as admittedly, the petitioner is holding the diploma in "Culture and Tourism". Thus, grant of relaxation will not be of any consequence to the petitioner. Learned counsel also submits that in a detailed affidavit filed by the respondents, they have explained the reasons for grant of relaxation in two other trades as mentioned by the petitioner. He, therefore, prays that the writ petition may be dismissed.

6. I have considered the submissions made at the Bar and gone through the relevant record of the case.

This Court on 21.07.2023 has passed the following order :-

"1. During the course of submission, Mr. Pawan Singh, learned counsel for the petitioner pointed out that by way of order dated 16.09.2022, Rajasthan Council of School Education has given relaxation of two years and three years respectively in prescribed qualification in two trades, namely, IT/ITEs and Electronic and Hardware, whereas in the case of



Tourism and Hospitality, such relaxation has not been given and relaxation has been given only in the criteria of age and experience.

2. *It is surprising that in other two trades, namely, IT/ITEs and Electronic and Hardware, the relaxation was not given in the age and experience.*
3. *Such approach of the State is suggestive of influence if not extraneous consideration.*
4. *The competent authority of the Rajasthan Council of School Education is directed to file an affidavit explaining the reasons for which the different yardsticks have been applied for different subjects.*
5. *The affidavits shall be filed by the persons directly connected with grant of such relaxation.*
6. *List this case on 03.08.2023. "*

7. In compliance of the order dated 21.07.2023, the respondents have filed an additional affidavit.

8. The petitioner is holding the diploma in "Culture & Tourism" whereas, the requirements of the respondents as mentioned in their annexure of the bid document for holding the position of "Vocational Trainer/Teacher" in Tourism & Hospitality is Diploma/Degree in Hotel Management from a recognized Institute/University, but the petitioner is holding the diploma in "Culture & Tourism". The qualifications prescribed by the respondents clearly demonstrate that the petitioner is not holding the requisite qualification for the post of "Vocational Trainer/Teacher" and, therefore, grant of any relaxation in that trade will not help the petitioner. Even otherwise, this Court is of the view that relaxation in any sphere cannot be claimed as a matter of right. It is within the domain of the appointing authority/recruiting agency to grant a particular relaxation in a particular field which suits as per the requirement and the job which is to be performed by a particular candidate in a trade.



9. The Hon'ble Supreme Court in the case of **State of U.P. & Ors. V/s Vikas Kumar Singh & Ors. (Civil Appeal No.6868/2021)** decided on 22.11.2021 has held as under : -

“ 7.1 The learned Single Judge thereafter while quashing and setting aside the eligibility lists dated 18.03.2019 and 10.05.2019 has issued the writ of mandamus commanding or directing the competent authority to grant relaxation in qualifying service, which as such was permissible under Rule 4 of the Relaxation Rules, 2006. The word used in the Rule 4 of Relaxation Rules, 2006 is “MAY”. Therefore, the relaxation may be at the discretion of the competent authority. **The relaxation cannot be prayed as a matter of right. If a conscious decision is taken not to grant the relaxation, merely because Rule permits relaxation, no writ of mandamus can be issued directing the competent authority to grant relaxation in qualifying service. Therefore, the High Court has committed a grave error in issuing the writ of mandamus commanding the competent authority to grant relaxation in the qualifying service. Consequently, the High Court has also erred in quashing and setting aside the eligibility lists dated 18.03.2019 and 10.05.2019, which as such were prepared absolutely in consonance with the Rules, 1990 and Rules, 2006. The impugned judgments and orders passed by the learned Single Judge as well as the Division Bench of the High Court are not sustainable in law. ”**

10. Since, the petitioner is not holding the requisite qualification for the post, the candidature of the petitioner has rightly been rejected. The writ petition is bereft of any merit and the same is, therefore, dismissed.

(VINIT KUMAR MATHUR),J

37-SunilS/-