

Case :- WRIT - A No. - 8363 of 2020

Petitioner :- Sonia

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Seemant Singh

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar,J.

Heard Sri P. K. Ojha, learned counsel holding brief of Sri Seemant Singh, learned counsel for the petitioner and the learned Standing Counsel appearing for the State.

Learned counsel for the petitioner submits that his candidature has been rejected merely because he has obtained diploma in Elementary Teacher Training Course from the State of Jammu and Kashmir. It is argued that merely because the petitioner obtained said diploma from any other State cannot be a ground to reject the candidature. Learned counsel for the petitioner submits that this issue is no more res integra as the same has come to be resolved by a Division Bench of this Court in **Special Appeal No. 858 of 2008; Bhupendra Nath Tripathi & others v. State of U.P. & other**. He further submits that this Court has already entertained a petition being Writ A No. 7777 of 2019 filed on similar issue and disposed of the same on 20.5.2019 with certain observations and, therefore the present petition may be also disposed of in the light of direction as contained in the said order.

Learned Standing Counsel has no objection in case the present petition is disposed of in light of the order dated 20.5.2019 passed in Writ A No. 7777 of 2019.

In view of the above, the writ petition stands disposed of in terms of the order dated 20.5.2019 passed in Writ A No. 7777 of 2019. It is further directed that the competent authority shall take appropriate decision within a period of four weeks' from the date of production of certified copy of the order.

Order Date :- 14.10.2020

Kuldeep

Case :- WRIT - A No. - 7777 of 2019

Petitioner :- Praveen Kumar

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Raghwendra Prasad Mishra

Counsel for Respondent :- C.S.C.,A.S.G.I.,Dhananjay Awasthi,Shyam Krishna Gupta

Hon'ble Mrs. Sunita Agarwal,J.

Sri S.K.Gupta, learned Advocate is appearing on behalf of respondent nos.3 and 4.

Sri Dhananjay Awasthi, learned Advocate is appearing for respondent no.5.

Notice on behalf of respondent no.6 has been received in the Office of Assistant Solicitor General of India. No one had appeared on his behalf.

Learned Standing Counsel appears on behalf of respondent nos.1 and 2.

It is admitted by Sri Dhananjay Awasthi, learned counsel for NCTE, that jurisdiction of NCTE does not extend to the State of Jammu & Kashmir in view of Section 1 of NCTE Act.

In view of the said submission, the question of the diploma course being recognized by NCTE would not arise. Only question remains is that Diploma in Elementary Teachers Training Course obtained by the petitioner is a genuine certificate or not. The genuineness of the same can be examined by the District Basic Education Officer by writing letter to seek verification from the appropriate authority. However, the claim of the petitioner for grant of appointment to the post of Assistant Teacher cannot be withheld either on the ground that the diploma certificate is not recognized by NCTE or that it is a diploma from outside the State. Jammu and Kashmir is an intergral part of Union of India. It has a special status so as to laws relating to citizens of Jammu & Kashmir. The citizens of Jammu & Kashmir can not be excluded from consideration for employment in other States of the country on the ground that NCTE Act does not have application in the State of Jammu and Kashmir. The Division Bench of this Court in the case of ***Bhupendra Nath Tripathi & others vs State of U.P & Ors. in Special Appeal No.858 of 2008*** has held that exclusion of such candidates can be treated as valid classification under Article 14

The validity of Diploma course in elementary education completed by the petitioner, therefore, cannot be doubted at this stage. The District Basic Education Officer, Moradabad is, therefore, directed to take appropriate steps for issuance of appointment letter to the petitioner provided he fulfills all other eligibility criteria. The appointment so given shall be subject to verification of his educational testimonials, by the competent authorities.

Subject to above, the present petition is **disposed of**.

The petitioner shall, however, disclose the name of the institution from which he has completed the said course in an affidavit be filed before the respondent no.4, District Basic Education Officer, Moradabad for seeking appointment to the post of Assistant Teacher, to facilitate verification process.

Order Date :- 20.5.2019

Harshita