

Court No. - 8

Case :- WRIT - A No. - 8383 of 2025

Petitioner :- Maya Shukla @ Maya Mishra

Respondent :- Secy. / Examination Controller Lower Subordinate Service Selection Commission Lko. And 2 Others

Counsel for Petitioner :- Jitendra Kumar Pandey, Ankit Pandey

Counsel for Respondent :- Gaurav Mehrotra, C.S.C., Utsav Mishra

Hon'ble Manish Mathur, J.

1. Heard Mr. Prabhat Kumar, whose power filed today is taken on record, and Mr. Jitendra Kumar learned counsel for the petitioners, Mr. Utsav Mishra, learned counsel for opposite parties 1 and 2, and learned State Counsel for opposite party No. 3.

2. Petition has been filed seeking a direction to the concerned authority to permit petitioner to participate and include her name in the impugned list for the post of "cutting swing" scheduled on July 29th, July 2025.

3. Learned counsel for petitioner submits that in view of the U.P. Audhyogik Shikshan Sansthan (Anudeshak) Sewa Niyamavali 2014 the petitioner would be entitled for consideration in terms of paragraph 16(3) (ka) thereof since marks in the high school and I.T. I. certificate examinations are required to be taken into consideration in the following manner:-

"टिप्पणी: नियुक्ति प्राधिकारी अन्य सदस्यों से वरिष्ठ किसी अधिकारी को अपनी ओर से चयन समिति के अध्यक्ष के रूप में नाम निर्दिष्ट कर सकता है और वह केवल साक्षात्कार लेने के लिए एक से अधिक चयन समिति गठित कर सकता है।

(2) चयन हेतु विचारार्थ आवेदन, नियम-15 के अधीन जारी किये गये विज्ञापन में प्रकाशित प्रपत्र में नियुक्ति प्राधिकारी द्वारा आमंत्रित किये जाएंगे।

(3) सीधी भर्ती के लिए चयन करते समय पात्र अभ्यर्थियों की श्रेष्ठता सूची निम्नलिखित रीति में तैयार की जाएगी

(क) पद के लिए विहित शैक्षिक अहतांकों हेतु प्रत्येक अभ्यर्थी को निम्नलिखित रीति में अंक प्रदान किये जायेंगे

(एक) हाई स्कूल परीक्षा में प्राप्त अंकों के प्रतिशत का 50 प्रतिशत प्रत्येक अभ्यर्थी को दिया जायेगा।

(द) राष्ट्रीय व्यवसाय प्रमाण पत्र/राष्ट्रीय शिक्षता प्रमाण पत्र परीक्षा में प्राप्त अंकों का बीस प्रतिशत प्रत्येक अभ्यर्थी को दिया जायेगा

या

डिप्लोमा या उपाधि परीक्षा में प्राप्त अंकों के प्रतिशत का 20 प्रतिशत प्रत्येक अभ्यर्थी को दिया जायेगा।

(तीन) शी०आई०टी०एस० / पी०ओ० टी० परीक्षा में प्राप्त अंकों के प्रतिशत का 15 प्रतिशत प्रत्येक अभ्यर्थी को दिया जायेगा।

(ख) (एक) खण्ड (क) के अधीन मूल्यांकनों के परिणाम प्राप्त हो जाने और सारिणीबद्ध कर लिये जाने के पश्चात, चयन समिति साक्षात्कार आयोजित करेगी। यदि प्राप्त आवेदन, संख्या में बहुत अधिक हो तो ऐसी स्थिति में साक्षात्कार हेतु बुलाये जाने वाले अभ्यर्थियों की संख्या, रिक्तियों की संख्या की चार गुनी होगी। इस प्रयोजनार्थ अभ्यर्थियों की श्रेष्ठता सूची उनके द्वारा खंड (क) के अधीन प्राप्त अंकों के कुल योग के आधार पर पृथक रूप से तैयार की जाएगी।

(दो) साक्षात्कार एक सौ अंकों का होगा। साक्षात्कार में प्राप्त अंकों का 15 प्रतिशत प्रत्येक अभ्यर्थी को दिया जायेगा।"

4. Learned counsel appearing for opposite parties 1 and 2 has refuted submissions advanced by learned counsel for the petitioner with submission that the petitioner's candidature has not been considered since there was no such provision in the advertisement issued in November 2015 for the said post, which is in accordance with the English version of the rules known as UP Industrial Training Institutes (Instructors) Service Rules, 2014, which is in the following manner:-

" 16. (1) Direct recruitment shall be made by a Selection Committee

comprising:

- | | | | |
|-----|-------|-------|-------|
| (1) | xxxxx | xxxxx | xxxxx |
| (2) | xxxxx | xxxxx | xxxxx |

(3) In making selection for direct recruitment, the merit list of the eligible candidates shall be prepared in the following manner:-

(a) For academic qualifications prescribed for the post, the marks shall be awarded to each candidate in the following manner:

(i) Fifty percent of the percentage of marks secured in the High School Examination shall be given to each candidate."

(ii) Twenty percent of the percentage of marks secured in the National Trade Certificate Test/ National Apprenticeship Certificate Test shall be given to each candidate,

Or

Twenty percent of the percentage of marks secured in Diploma or Degree Examination shall be given to each candidate.

(iii) Fifteen percent of the percentage of the marks secured in CUS/POT test shall be given to each candidate.

(b) (1) After the results of the evaluations under clause (a) have been received and tabulated, the Selection Committee shall hold an interview. If the applications received are large in numbers, then in such situation the number of candidates to be called for interview shall be four times the number of vacancies. For this purpose the merit list of candidates shall be prepared separately on the basis of aggregate of marks obtained by them under clause (a).

(ii) The interview shall carry one hundred marks. Fifteen percent of the marks obtained at the interview shall be given to each candidate."

5. It is also submitted that in case of any contradiction in the Hindi and English versions, it is the English version which would prevail in terms of Article 348(3) of the Constitution of

India.

6. Upon consideration of the submissions advanced by learned counsel for the parties and perusal of the material on record, particularly the Hindi version of rule 16(3) and the English version thereof, a clear dichotomy is evident between Rule 16(3)(ka)(Da) of the Hindi version and Rule 16(3)(a)(ii) of the English version in the following manner:-

Rule 16(3)(ka)(Da) of the Hindi version

"(द) राष्ट्रीय व्यवसाय प्रमाण पत्र/राष्ट्रीय शिक्षता प्रमाण पत्र परीक्षा में प्राप्त अंको का बीस प्रतिशत प्रत्येक अभ्यर्थी को दिया जायेगा "

Rule 16(3)(a)(ii) of the English version

" (ii) Twenty percent of the percentage of marks secured in the National Trade Certificate Test/ National Apprenticeship Certificate Test shall be given to each candidate "

7. In such circumstances, the question arising for consideration is whether the Hindi or English version of the rules would prevail.

8. The aforesaid aspect is delineated delineated in Article 348(3) of the Constitution of India in the following manner:-

"Notwithstanding anything in sub-clause (b) of clause (1), where the Legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor of the State or in any order, rule, regulation or bye-law referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article."

9. Learned counsel for the petitioner has placed reliance on a judgment rendered by Supreme Court in the case of Commissioner of Trade Taxes versus Associated Distributors

Limited, Civil Appeal No. 6636 of 2002, as well as a full bench decision of this court in the case of Ram Surat Mishra versus State of UP and others, writ petition No. 8 (S/B) of 2010, while learned counsel for the answering opposite party has placed reliance on a judgment rendered by Supreme Court in the case of Prabhat Kumar Sharma versus Union Public Service Commission and others, (2006) 10 SCC 587, as well as a full bench decision of this court in the case of Smt. Ram Rati and others versus Gram Samaj Jehwa, through its Up-Pradhan, AIR 1974 Allahabad 106 (FB).

10. Upon consideration of provision of Article 348 of the Constitution of India, it is evident that the aforesaid provision commences with a non-obstante clause and indicates that all proceedings in the Supreme Court and High Courts and authoritative texts shall be in English language. Clause 2 of the Article, again commencing with a non-obstante clause, indicates that with the previous consent of the President, use of Hindi language, or any other language used for any official of the State may be authorized. However clause 3 of the aforesaid Article provides that the authoritative text in English language under this Article would prevail.

11. In the considered opinion of this court, Clause 3 of Article 348 of the Constitution of India therefore clearly prescribes an aspect that in case of any dichotomy between the vernacular language and English language, it is the English language which will be considered to be authoritative.

12. The said proposition has been considered by Hon'ble Supreme Court in the case of Prabhat Kumar Sharma (supra) in the following manner:-

" 19. The Court after taking notice of Article 348(1)(b) of the Constitution

of India which provides that the authoritative text of all Bills to be introduced or amendments thereof to be moved in either House of Parliament shall be in English language came to the conclusion that the Hindi version was a translated version and the original version was the authoritative text and in the Hindi version there was some defect in translation because of which Lohar community had been claiming the advantage of being a Scheduled Tribe when actually they were only a Backward Class and thus could not be given the benefit of reservation as a Scheduled Tribe. It was observed in Nityanand case [(1996) 3 SCC 576] : (SCC p. 584, para 19)

"19. Article 348(1)(b) of the Constitution provides that notwithstanding anything in Part II (in Chapter II Articles 346 and 347 relate to regional languages) the authoritative text of all Bills to be introduced and amendments thereto to be moved in either House of Parliament ... of all ordinances promulgated by the President ... and all orders, rules, regulations and bye-laws issued under the Constitution or under any law made by Parliament, shall be in the English language. By operation of sub-article (3) thereof with a non obstante clause, where the legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the legislature of the State or in ordinances promulgated by the Governor of the State or in any order, rule, regulation or bye-law referred to in para (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article. Therefore, the Act and the Schedule thereto are part of the Act, as enacted by Parliament in English language. It is the authoritative text. When the Schedules were translated into Hindi, the translator wrongly translated Lohara as Lohar omitting the letter 'a' while Lohra is written as mentioned in English version. It is also clear when we compare Part XVI of the Second Schedule relating to the State of West Bengal, the word Lohar both in English as well as in the Hindi version was not mentioned. Court would take judicial notice of Acts of Parliament and would interpret the Schedule in the light of the English version being an authoritative text of the Act and the Second Schedule."

20. We are respectfully in agreement with the view taken in Nityanand

case [(1996) 3 SCC 576] .

21. Learned Senior Counsel appearing for the appellant contends that after the coming into force of the Official Languages Act, 1963 the Hindi version was the authoritative text and in the case of ambiguity between Hindi and English versions, the Hindi version would prevail. Article 348 of the Constitution clearly provides English to be the authoritative text in respect of Acts of Parliament, amendments to Acts subject to any law made by Parliament. The Official Languages Act, 1963 vide Section 3 thereof provides for continuance of English language for official purposes of the Union and for use in Parliament. Section 5 provides for a Hindi translation of all Central Acts and Ordinances promulgated by the President or if any order or rule or regulation or bye-laws issued under the Constitution or under any Central Act. Section 6 deals with the State Act with which we are not concerned in the instant case. From a conjoint reading of Article 348 of the Constitution and Sections 3 and 5 of the Official Languages Act, 1963, English continues to remain the authoritative text in respect of the Acts of Parliament."

13. The aforesaid aspect has also been considered by Full Bench of 5 judges of this court in the case of Ram Rati (supra), which has also held as follows:-

"14. Under this Article two things have been provided; Firstly, all proceedings in the Supreme Court and in every High Court have to be in the English, language except when under clause (2) the Governor of a State with the previous consent of the President, authorises the use of the Hindi language or any other local language in proceedings in the High Court of that State. We are not concerned with that question in this case. Secondly, the authoritative text of all Bills and Acts of the Parliament and of the State Legislatures has to be in the English language. However, the State Legislatures are authorised to prescribe any language other than the English language for this purpose, but, in such an event, clause (3) provides that a translation in the English language of any Bill introduced in or Act passed by a State Legislature in a language other than the English language has to be published under the authority of the Governor of the State in the official Gazette of that State and such translation shall be deemed to be the authoritative text of such a Bill and Act. Whenever a

question arises as to what is the authoritative Text of a particular Act or an Ordinance etc. of a State Legislature, one has to turn to its Engl in translation, if it was enacted in a language other than the English language. The authoritative text of any Bill, Act or Ordinance of a State Legislature cannot be in a language other than the English language unless the Parliament by law otherwise provides. Thus, the power to declare that the authoritative text of any Ordinance, Act etc. of a State Legislature shall be in a language other than the English language has been vested exclusively in the Parliament. The Parliament has not made any such provision so far. The official language of the State of Uttar Pradesh is Hindi, so that the Legislature of this State can pass Ordinance, Acts, etc. in the Hindi language. Thus even though the U.P. Consolidation of Holdings Act was passed by the State Legislature in Hindi, yet its translation in the English language shall be regarded its authoritative text and shall prevail over its Hindi version.

15. The learned counsel for the respondents referred to Arts. 345, 346 and 347 of the Constitution Art. 345 makes a provision for official language of a State and provides that the State Legislature may by law adopt any one or more of the languages in use in the State or the Hindi as the language or languages to be used for all or any of the official purposes Art. 346 makes a provision about the official language for communication between one State and another or between a State and the Union. In Art. 347 a provision has been made that on a demand being made the President may direct that a language other than the English language shall be officially recognised in a State or any part thereof for such purposes as may be specified. These Articles have no bearing upon the question before us. We are not concerned with the official language of a State but are concerned with the question of the language in which the Bills and Acts have to be passed by a State Legislature and that subject has been specifically dealt with in Art. 348, which provides that notwithstanding anything in the foregoing provisions of this Part of the Constitution, all Acts, etc. shall be in the English language. It is thus clear that the provisions contained in Art. 345, 346 and 347 are subject to the provisions contained in Art. 348.

16. The other argument is that in clause (3) of Art. 348 the use of the words "notwithstanding anything in sub-clause (b) of clause (1)" suggests that this clause will over ride clause (1). This interpretation is not correct.

It only means that a State Legislature may prescribe any language other than the English language for use in Bills introduced in or Acts passed by the State Legislature and that clause (1)(b) shall not create an impediment in its way. As we have already indicated above, when a Bill is introduced or an Act is passed in a language other than the English language by a State Legislature, an authoritative translation thereof in the English language has to be provided and that translation shall for the purposes of clause (1)(b) be deemed to be the authoritative text thereof. Indeed, it will be beyond the competence of a State Legislature to provide that the authoritative text of its Acts and Ordinances etc. shall be in a language other than the English language, because such a power vests only in the Parliament. Thus, when there is a conflict between the English version of a statute of a State Legislature and its Version in a local language, the version in English language will prevail over the version in the local language. A Division Bench of this Court in Sagir Ahmad v. The Government of the State of U.P. [A.I.R. 1954 Alld. 257.] while referring to Art. 348 of the Constitution has at page 278 in paragraph 83 observed:—

"In view of this provision of the Constitution the notification appearing in English must prevail over the notification appearing in Hindi".

14. It is relevant that the aforesaid judgments have also considered the aspect of Official Languages Act.

15. Learned counsel for petitioner has pleaded reliance on judgments indicated herein above but a perusal of same would make it evident that while in the case of Associated Distributors Limited (supra), no reference pertaining to Article 348 of the Constitution of India has been made, in the case of Full Bench of this court in the case of Ram Surat Mishra (supra), only Clauses (1) and (2) of Article 348 have been adverted to while considering the UP Official Language Act, 1951, but again there was reference neither to Clause 3 of Article 348 nor of the earlier Full Bench decision of this court in the case of Smt. Ramrati (supra).

16. In view of aforesaid facts & circumstances, it is quite

evident that not only in terms of Article 348(3) of Constitution of India, but also in terms of judgments of Hon'ble Supreme Court and Full Bench decision of this court, it would be the English version of any Hindi translation of a bill or order or service regulations which would prevail. In such circumstances, twenty percent of the percentage of marks secured in the National Trade Certificate Test/National Apprenticeship Certificate Test would prevail.

17. In view of aforesaid, since petitioner is seeking benefit of Hindi version, the petition fails and is dismissed at the admission stage itself. Parties to bear their own costs.

Order Date :- 11.8.2025
prabhat