
(2011) 03 RAJ CK 0132

Rajasthan High Court (Jaipur Bench)

Case No: Civil Special Appeal (Writ) No. 173 of 2011 and 13-Ors.

Pawan Kumar Jain and
Another

APPELLANT

Vs

State of Rajasthan and
Others

RESPONDENT

Date of Decision: March 23, 2011

Acts Referred:

- Constitution of India, 1950 - Article 14, 16
- Rajasthan Panchayati Raj Rules, 1996 - Rule 266

Citation: (2011) 4 RLW 3031

Hon'ble Judges: Arun Mishra, C.J; Mohammad Rafiq, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Hon'ble Mohammad Rafiq, J.

All these special appeals are directed against the common judgment of the learned Single Bench dated 10/1/2011 whereby, as many as 157 writ petitions filed by the appellants and others were dismissed. Hence, all these matters were heard together and are being decided by this common judgment.

2. Appellants applied for appointment on the post of Teacher Gr.III (Sanskrit) in Upper Primary Section. They were initially allowed to appear in the written examination that was conducted by the Rajasthan Public Service Commission (for short, "RPSC"). Their candidature was however subsequently rejected on the premise that they did not hold the qualification of "Varishtha Upadhyaya" and were therefore not eligible for appointment on the said post. Some of the appellants have even challenged the validity of (amendment notification dated 22/8/2008) inserting new clause 6(a) in the Schedule-I appended to the Rajasthan Sanskrit Education Subordinate Service Rules, 1978 (hereinafter be referred as the. "Rules of 1978").

3. We have heard Shri R.N. Mathur, learned Senior Advocate with Shri Amit Tanwania, Shri Sanjeev Prakash Sharma, learned Senior Advocate with Shri Gaurav Sharma, Shri Hanuman Choudhary, Shri Vinod Goyal, Shri Anoop Dhand and Shri A.Kaushik for Shri R.B. Mathur, learned advocates for the appellants and Shri S.N. Kumawat, learned Additional Advocate General for the respondents.

4. Learned counsel for the appellants have contended that the learned Single Bench has failed to correctly interpret the provisions of clause 6(a) appended to Schedule-I of the Rules of 1978 regarding eligibility qualification, especially column 4 of entry 6(a), which inter-alia provides that for appointment on the post of Teacher Grade-III (Sanskrit) for Level (ii) Upper Primary Middle School Section, the qualification should be (i) Varishtha Upadhyaya or equivalent traditional Sanskrit examination with Sanskrit medium and (ii) Diploma or Certificate in Basic Teachers Training of duration of not less than two years or Bachelor of Elementary Education (B.El.Ed.) or Graduate with Shiksha Shastri or its equivalent. It is contended that while first two entries in clause (ii) of column 4 supra nemly; Diploma / Certificate in Basic teachers training and Bachelor of Elementary Education may be read along with qualification of "Varishtha Upadhyaya" but the last entry in clause (ii) of-column 4 "Graduate with Shiksha Shastri or its equivalent" has to be read independently because if one is Graduate, the fact that he would necessarily possess the qualification of Senior Higher Secondary would be implicit therein. Further contention of the learned counsel for the appellants is that all the appellants have Sanskrit as one of the optional subjects in their Senior Secondary School and thereafter they have acquired much higher qualification therewith like - B.A. with Sanskrit, M.A. with Sanskrit and Shiksha Shastri. They thus possess the requisite knowledge and teaching skills for imparting Sanskrit education in Upper Primary Level School. Mere fact that they did not possess the qualification of "Varishtha Upadhyaya" or equivalent traditional Sanskrit examination with Sanskrit medium, cannot be an impediment in their appointment as Teacher Gr.III in Upper Primary Section (Sanskrit). Learned counsel cited earlier rules especially the amendment made in the Rules of 1978 vide Notification dated 10/6/2008 in regard to eligibility qualification of Teacher Gr.III (Sanskrit). It was argued that at that stage, there was no bifurcation of Teacher Gr.III (Sanskrit) on the basis of Primary level and Upper Primary level. In column 4 relating to minimum academic qualification and experience for direct recruitment of the Schedule supra, qualification that was prescribed was "Varishtha Upadhyaya" or equivalent traditional Sanskrit examination with Sanskrit medium and Diploma or Certificate in Basic Teachers Training of duration of not less than two years or Varishtha Upadhyaya or equivalent with Bachelor of Elementary Education (B.El.Ed.). Learned counsel argued that even prior to Notification dated 10/6/2008, the position of the Rules of 1978 was such, which permitted the appointment of the candidates having Sanskrit as one of the subjects in Senior Secondary Examination with Shiksha Shastri or even Graduate or Post Graduate in Sanskrit. As a result of interpretation now taken by the respondents, all the appellants, who were otherwise eligible for appointment on the post of Teacher Gr.III (Sanskrit) have now been rendered ineligible for appointment and would be rendered jobless for all times

to come. Learned counsel contended that originally, the RPSC also did not treat the appellants ineligible and permitted them to appear in the written examination. RPSC even declared their result and displayed the same on the internet. The appellants secured higher merit than those, who have now been finally selected. But subsequently, at the instance of Director Sanskrit Education, an illegal stand has been taken by the RPSC in declaring them ineligible compelling all the appellants to approach this Court. Learned counsel contended that when the respondents have throughout been treating the appellants as eligible and even permitted them to appear in the written examination and even selected them, they are now estopped from declaring them ineligible only with a view to accommodating other lot of candidates having the qualification of "Varishtha Upadhyaya".

5. Shri R.N. Mathur, learned senior counsel appearing for the appellants argued that equivalent qualification of "traditional Sanskrit examination with Sanskrit medium" has nowhere been defined nor has the Government otherwise declared any such qualification equivalent to "Varishtha Upadhyaya". According to him, there is no such equivalent qualification i.e. "traditional Sanskrit examination with Sanskrit medium" except Senior Secondary Examination with Sanskrit as an optional subject. It is evident from the fact that Sanskrit Education Department itself on its website has declared the "Varishtha Upadhyaya" as equivalent to Senior Secondary, which fact has been noticed by the learned Single Bench, yet has been illegally ignored. In absence of any other prescription of equivalent qualification by the State Government, there is no reason why practice that was earlier prevailing should be discontinued. There is enough justification for doing so because all the appellants possess much higher qualification in the Sanskrit Education.

6. Learned counsel for the appellants also referred to the Syllabus of "Varishtha Upadhyaya" to argue that the students have to study the subjects of English, Hindi, Environment Education, Computer Science and Social Service Scheme etc. The qualification of Senior Secondary possessed by the appellants in which also the same subjects are taught, cannot be therefore in any manner described different, than the qualification of "Varishtha Upadhyaya". For that matter, argued the learned counsel, medium of instruction of optional subject of Sanskrit of the appellants is also Sanskrit. It was argued that the amendment notification dated 22/8/2008 in the Rules of 1978 was introduced pursuant to the Division Bench judgment of this Court in Kailash Chandra Harijan vs. State of Raj. & Ors. : RLR 2006(1) 665 : RLW 2006(2) Raj. 1700. Purpose of the said amendment was to ensure that only those, who are proficient in the language of Sanskrit are appointed Teachers in Sanskrit Education at Primary Level but here in the present case, appointments that are sought to be made, are although on the aforesaid post of Teacher Gr.III (Sanskrit) but such appointees are being recruited to be posted in the Upper Primary Section. If the interpretation, which the respondents are taking as per amended rules is upheld, this would frustrate the very purpose of bringing about such an amendment.

7. Learned counsel further argued that the word "and" that divides clause (i) and clause (ii) of column 4 is preceded by "comma" and thereafter the word "or" that divides first two sub-clauses of clause (ii) with its last sub-clause namely; "Graduate with Shiksha Shastri or its equivalent" is again preceded by "full stop" and that second sub-clause namely; "Bachelor of Elementary Education (B.El.Ed.) ends with a "full stop" thereof. The last sub-clause "Graduate with Shiksha Shastri or equivalent", which again ends with a "full stop" has to be therefore read independent of the earlier two sub-clauses in clause (ii). Though the rule may not be happily worded or drafted but intention of the rule making authority in treating the Graduates with Shiksha Shastri or its equivalent qualification as eligible is evident from the fact that it has purposely used the word "Graduate" whereas, for qualification of Shiksha Shastri, Graduation is implicitly a necessary qualification.

8. Learned counsel for the appellants have also assailed the validity of clause (i) of column 4 of entry 6(a) and argued that while qualification of "Varishtha Upadhyaya" may be relevant for Primary level but in the light of judgment of this Court in Kailash Chandra Harijan supra, having the same provision in the Upper Primary level is wholly arbitrary and unreasonable. Such a provision is ultravires of the Constitution of India as it makes discrimination between candidates, who otherwise broadly fall in the same category and who were hither treated the same category inasmuch as, both were eligible for appointment on the post of Teacher Gr.III (Sanskrit) prior to the impugned amendment. Such amendment has got no nexus with the object sought to be achieved. This provision is therefore violative of Articles 14 and 16 of the Constitution of India. In fact, amendment has proved counterproductive. Kind of interpretation that has been placed on the said provision by the learned Single Bench has also rendered the provision discriminatory and ultravires of the Constitution of India.

9. Shri Sanjeev Prakash Sharma, learned Senior Counsel appearing for the appellants has also cited the judgment of Division Bench of this Court in Prem Narain Sharma vs. State of Rajasthan (DBSAW No. 920/1996) decided on 13.1.1997 and argued that according to that judgment, appellants have to be treated as eligible for appointment. It is therefore prayed that all the appeals be allowed and the judgment of the learned Single Bench be set-aside and the action of the respondent-RPSC in declaring the appellants ineligible be declared illegal and respondents be directed to appoint appellants as per their merit.

10. E-converso, Shri S.N. Kumawat, learned Additional Advocate General has opposed the appeals and argued that the post of Teacher Gr.III (Sanskrit) is the last level of appointment in teaching wing of the Sanskrit Education Department, therefore "Varishtha Upadhyaya" or equivalent traditional Sanskrit examination with Sanskrit medium has been purposely prescribed as necessary qualification in clause (i) both at Primary and Upper Primary level in entry 6(a) of the Schedule appended to the Rules of 1978. Clause (ii) in both of these categories pertain to educational training qualifications. For Upper Primary level, sub clause (ii) admits of the qualification of Diploma or Certificate in Basic Teachers Training of duration of not less than two years or Bachelor of Elementary

Education (B.El.Ed.) or Graduate with Shiksha Shastri or its equivalent. This therefore clearly makes the intention of the rule making authority evident that a candidate for appointment on the post of Teacher Gr.III (Sanskrit) for Upper Primary Section (Sanskrit), should necessarily possess the qualification of "Varishtha Upadhyaya" or equivalent traditional Sanskrit examination with Sanskrit medium but if he possess any one the three educational training qualifications with that, he would be eligible, be in a Diploma or Certificate in Basic Teachers Training of duration of not less than two years or a Bachelor of Elementary Education (B.El.Ed.) degree or Graduation degree with Shiksha Shastri. Learned counsel submitted that the appellants were allowed to appear in the written examination because RPSC in its working does not scrutinize the applications at the initial stage and scrutiny regarding eligibility qualification etc. is made at the time of preparing final merit list. It is denied that 3rd sub-clause of clause (ii) in column 4 at entry 6(a) of Schedule-I should be read independent of remaining two sub-clauses of clause (ii). If this is done, this would frustrate the very purpose of making such amendment, which is intended to ensure that only such candidates are appointed as teachers in the Primary and Upper Primary Schools of Sanskrit Education, who have in their earlier phase of academic career i.e. upto the Varishtha Upadhyaya, studied with Sanskrit as a medium of instruction, which is why the rule making authority even for equivalent traditional Sanskrit examination has insisted that this should also be obtained in Sanskrit medium. Learned counsel submitted that information displayed on the website of the Sanskrit Education Department merely indicated the level of different examinations in Sanskrit Education but that did not by itself grant equivalence to the "Varishtha Upadhyaya" with that of Senior Secondary Examination. No order to that effect has been passed by the State Government so far, although the Government might soon issue an order prescribing equivalent traditional Sanskrit examination with Sanskrit medium for the purpose of removing this anomaly. Learned counsel therefore submitted that the appeals be dismissed.

11. We have given our thoughtful consideration to the rival submissions, perused the impugned judgments and other material on record and also studied the cited case law.

12. Ultimate decision of all these matters hinges on true meaning and interpretation of entry 6(a) of the Schedule appended to the Rules of 1978, which is for the facility of reference reproduced hereunder:-

6(a). Teacher Grade-III (Sanskrit) - 100% by direct recruitment through RPSC:

Level (i) Primary

(i) Varishtha Upadhyaya or equivalent traditional Sanskrit examination with Sanskrit medium, and

(ii) Diploma or Certificate in Basic Teachers Training of duration of not less than two years or

Level (ii) Primary

(i) Varishtha Upadhyaya or equivalent traditional Sanskrit examination with Sanskrit medium, and

(ii) Diploma or Certificate in Basic Teachers Training of duration of not less than two years or Graduate with Shiksha Shastri or its equivalent.

13. Aforequoted entry was inserted in the Schedule of the Rules of 1978 by the Rajasthan Sanskrit Education Subordinate (Second Amendment) Rules, 2008 promulgated vide Notification dated 22/8/2008. This amendment was originated by the Division Bench judgment of this Court in Kailash Chandra Harijan supra. Question in that case was with regard to the recruitment to the post of Teachers in Primary and Upper Primary Schools. In that context, it was held that howsoever high qualification a candidate might possess, it cannot be treated at par with Basic School Training Certificate (BSTC) and the appointments to the candidates with such qualification may not be granted on the basis of Rule 266 of the Rajasthan Panchayati Raj Rules, 1996 as it runs contrary to clause 4 of the Regulation framed by the National Council for Teachers Education u/s 12 of the Act of 1993. This Court however saved the rules and for the time being allowed three years time period to the State Government to modify the existing recruitment rules in terms of Regulation 4 supra. In those regulations, imparting of education in the schools has been divided in three stages, namely; (i) Primary, (ii) Upper Primary/Middle School and (iii) Secondary and Senior Secondary school. But here in the present case, we find that intention of the rule making authority is slightly different but specific that only such teachers are appointed in the schools at elementary stage i.e. Primary and Upper Primary level, who have had their early education upto the level of "Varishtha Upadhyaya" with Sanskrit as medium of instruction. This is because a candidate with only such background can impart education to the students in Sanskrit schools in medium of Sanskrit only. Intention of the rule making authority is further evident from the fact that while specifically prescribing "Varishtha Upadhyaya" as eligibility qualification, it also additionally provided for "equivalent traditional Sanskrit examination with Sanskrit medium". In clause (i) of column 4 at entry 6(a) of Schedule-I appended to the Rules of 1978, Varishtha Upadhyaya or equivalent traditional Sanskrit examination with Sanskrit medium has thus been prescribed as "foundational qualification", which is the basic and necessary qualification for making a candidate eligible for appointment on the post of Teacher Gr.III (Sanskrit) both for Primary and Upper Primary level. Reason for this is that in most of the schools run by the Government, Teachers Gr.III are imparting education at both the levels i.e. Primary and Upper Primary Schools. There is a definite purpose behind this and this has got a reasonable nexus with the object sought to be achieved. Object is to ensure that only such teachers, who have had their early education with Sanskrit as medium of instruction, are capable of imparting education to the students of those schools at Primary and Upper Primary level with Sanskrit as medium of instruction.

Same level of proficiency may not be possible to be achieved if one possess a Senior Secondary Examination with Sanskrit as an optional subject, where rest of the subjects are not taught to him with Sanskrit as a medium of instruction.

14. We do not therefore find any substance in the challenge to the constitutional validity of the impugned amendment dated 22/8/2008 introduced by the Rajasthan Sanskrit Education Subordinate (Second Amendment) Rules, 2008.

15. Contention that equivalent traditional Sanskrit examination with Sanskrit medium has not been defined anywhere and the State Government has not notified such equivalence so far, cannot be a reason to hold that in "absence of any prescription by the government, Senior Secondary with Sanskrit as an optional subject, should be treated as equivalent traditional Sanskrit examination with Sanskrit medium, although we may at this stage impress upon the State Government to expedite process of making prescription of such equivalent traditional Sanskrit examination with Sanskrit medium so that there may not be any ambiguity in this respect.

16. Merely because appellants have higher qualification such as B.A. in Sanskrit or M.A. in Sanskrit or Shiksha Shastri, does not mean that rigour of the rule in their cases should be relaxed so as to read in the rules what is not provided by the rule making authority and/or rather ignore what has been specifically provided. We are not inclined to countenance the argument that sub-clause (iii) in clause (ii) of column 4 of entry 6(a), in the schedule appended to the Rules of 1978, which provides "Graduate with Shiksha Shastri or its equivalent" should be read independent of the first two sub-clauses. In our view, it would amount to doing violence to the language of the rule in clause (i) whereof Varishtha Upadhyaya has been treated to be a basic foundational eligibility qualification together with any one of the three educational training qualifications in clause (ii) to make a candidate eligible for appointment. The word "and" has been used between sub-clause (i) and sub-clause (ii) and this "and", as is evident from the context, has to be always understood in conjunctive sense that both the conditions have to be satisfied by a candidate so as to claim eligibility for appointment. But in clause (ii), three different sub-clauses relating to educational training qualifications are divided by the word "or", which is a disjunctive expression making it open for a candidate to claim eligibility on the basis of qualification of Varishtha Upadhyaya or equivalent traditional Sanskrit examination with Sanskrit medium in clause (i) with any one of those three educational training qualifications.

17. It is trite that word "or" is normally disjunctive and word "and" is normally conjunctive. They can be read otherwise only if the context of particular case so demands, where not doing so is likely to result in absurd consequences. In the present case, intention of the rule making authority is loud and clear. On the contrary, if one were to read the word "and" between clauses (i) and (ii) of column 4 against entry 6(a) of Schedule-A supra, as "or", it would result in an unintelligible and absurd result. When intention of the rule making authority is clearly evident from plain language used in the rule, nothing can

justify to take any other interpretation because an interpretation, which results in rejection of a word in the language of the rule as meaningless is always to be avoided. As per the basic rule of literal interpretation, words of a statute have to be understood in their natural sense unless it leads to some unintelligible or absurd result or there is something in the context of the matter, suggesting to the contrary.

18. Merely because the Sanskrit Education Department has on its website indicated the qualification of "Varishtha Upadhyaya" of the level of the Senior Secondary, does not mean that every candidate having Senior Secondary Examination certificate would be treated having equivalent traditional Sanskrit examination with Sanskrit medium for the purpose of Rules of 1978. Howsoever high qualification the appellants may possess, whether BA in Sanskrit or MA in Sanskrit or Shiksha Shastri, they do not have the basic foundational qualification of "Varishtha Upadhyaya" or equivalent traditional Sanskrit examination with Sanskrit medium. They cannot be therefore treated as eligible. We may in "this connection usefully refer to the judgment in [P.M. Latha and Another Vs. State of Kerala and Others](#), In that case too B.Ed. candidates were allowed to compete in seeking for appointment and were selected contrary to the terms of advertisement for imparting education in Primary and Upper Primary Government schools. The candidates, who possessed Teachers Training Certificate (TTC) qualification, questioned their non-selection due to inclusion of B.Ed. candidates in the select list prepared by the Public Service Commission of the State of Kerala. The Single Bench of the High Court of Kerala allowed all the writ petitions holding that B.Ed. candidates, who did not have TTC qualification and were yet included in the rank list should be deleted therefrom and their appointments be cancelled and the merit list should be prepared afresh. The judgment was challenged before the Division Bench, which reversed the same and the matter travelled to the Supreme Court. While reversing the judgment of the Division Bench and restoring that of the Single Bench, the Supreme Court in para 13 of the report of the judgment observed, as under:-

13. Equity and law are twin brothers and law should be applied and interpreted equitably but equity cannot override written or settled law. The Division Bench forgot that in extending relief on equity to BEd candidates who were unqualified and yet allowed to compete and seek appointments contrary to the terms of the advertisement, it is not redressing the injustice caused to the appellants who were TTC candidates and would have secured a better position in the rank list to get appointment against the available vacancies, had BEd candidates been excluded from the selection. The impugned judgment of the Division Bench is both illegal, inequitable and patently unjust. The TTC candidates before us as appellants have been wrongly deprived of due chance of selection and appointment. The impugned judgment of the Division Bench, therefore, deserves to be set aside and of the learned Single Judge restored.

19. Again in [Yogesh Kumar and Others Vs. Government of NTC, Delhi and Others](#), the same issue cropped up before the Supreme Court where over-qualified candidates i.e. B.Ed. candidates claiming appointment on the post of Assistant Teachers in primary

school of Municipal Corporation Pelhi in preference to the TTC candidates, whose qualification was specially devised for appointment as Assistant Teachers, approached the Delhi High Court. Their petitions were dismissed. They thereafter approached the Supreme Court. In those facts, it was held by the Supreme Court in para 8 of the judgment, as under:

8. This last argument advanced also does not impress us at all. Recruitment to public services should be held strictly in accordance with the terms of advertisement and the recruitment rules, if any. Deviation from the rules allows entry to ineligible persons and deprives many others who could have competed for the post. Merely because in the past some deviation and departure was made in considering the BEd candidates and we are told that was so done because of the paucity of TTC candidates, we cannot allow a patent illegality to continue. The recruitment authorities were well aware that candidates with qualification of TTC and BEd are available yet they chose to restrict entry for appointment only to TTC-pass candidates. It is open to the recruiting authorities to evolve a policy of recruitment and to decide the source from which the recruitment is to be made. So far as BEd qualification is concerned, in the connected appeals (Case Nos.1726-28 of 2001) arising from Kerala which are heard with this appeal, we have already taken the view that BEd qualification cannot be treated as a qualification higher than TTC because the nature of the training imparted for grant of certificate and for degree is totally different and between them there is no parity whatsoever. It is projected before us that presently more candidates available for recruitment to primary school are from BEd category and very few from TTC category. Whether for the aforesaid reasons, BEd qualification can also be prescribed for primary teachers is a question to be considered by the authorities concerned but we cannot consider BEd candidates for the present vacancies advertised as eligible. In our view, the Division Bench of the Delhi High Court was fully justified in coming to the conclusion that BEd candidates were rightly excluded by the authorities from selection and appointment as primary teachers. We make it clear that we are not called upon to express any opinion on any BEd candidates appointed as primary teachers pursuant to advertisements in the past and our decision is confined only to the advertisement which was under challenge before the High Court and in this appeal.

20. In [Dilip Kumar Ghosh and Others Vs. Chairman and Others](#), also the candidates having B.Ed. qualification were denied appointment in preference to the candidates with Junior Basic Training/ Primary Teachers Training Certificates. Writ petitions were dismissed by the Calcutta High Court, which is why they approached the Supreme Court. Supreme Court relying on the above referred to two judgments held that in the case of junior basic training and primary teachers training certificates, the emphasis is on the development of the child studying in the primary schools. The person, who is trained in B.Ed. degree may not be equipped to understand the psychology of a child at that early stage. To accept a proposition that a candidate, who holds a B.Ed. degree, that is, higher degree, cannot be deprived appointment to the post of primary school teacher would negate the aims and objects of the Rules for the purpose for which it is framed. These

Rules were framed primarily for recruitment of the teachers for primary schools and in that context the Rules were designed to give credit to the candidates, who are specifically trained to teach in primary schools. The idea behind framing of these Rules was that the junior basic training and primary teachers training certificate trained teachers should be appointed so that they can impart proper education to the child of tender age, who requires an expert and tending hand.

21. We in the present case are conscious of the fact that qualification of "Varishtha Upadhyaya" is not an educational training qualification but nevertheless this is the basic foundational qualification for which an emphasis has been laid by the rule making authority in the rules by additionally providing for equivalent traditional Sanskrit examination with Sanskrit medium only with the object of ensuring that only such candidates, who have had their early education in Sanskrit medium are appointed to impart education to the students at the Primary and Upper Primary level in Sanskrit medium. That expertisim possibly cannot be achieved if a candidate acquires Senior Secondary Certificate with Sanskrit only as one of the optional subjects or receives Sanskrit education at a very late stage of academic career, at the Graduation or Post Graduation level. We are therefore in agreement with the interpretation placed by the learned Single Bench on the rule in question.

22. On perusal of Division Bench judgment of this Court in Prem Narain Sharma supra, we find ratio of that judgment to the contrary. It was observed by the Division Bench in that judgment as under:-

the qualifications for General Teachers have been mentioned as Secondary Praveshika or its equivalent, but no qualifications have been mentioned under under 1978 Rules or Schedule attached with it for the recruitment of the specialised post of Sanskrit Teacher. Even though Praveshika has been prescribed for General Teacher as well, but the Government had thought it proper to prescribe the Praveshika qualification, which qualification orient the candidate in Sanskrit from the very beginning for recruitment to the Sanskrit Teacher. Sanskrit Teacher as such is not prescribed under the Rules in service. It can be safely said that the Government vide its Circular had supplemented the qualifications already prescribed, for the post of the recruitment of the Sanskrit Teacher.

The Division Bench however on being informed that the State Government was contemplating to modify the rules to prescribe qualification for Sanskrit Teachers, observed that "it is high time that the State Government, if it wants to amend the Rules, it may do so at the earliest possible to avoid such type of litigations". It was only till the time rules were amended, the batch of appellants in that case were allowed to be considered for appointment. Clearly, such opportunity was made available to them till amendment in the rules are made. Now that the rules have been framed, which require qualification of "Varishtha Upadhyaya" or equivalent traditional Sanskrit examination with Sanskrit medium, this judgment would be of no help to the appellants.

23. All the special appeals therefore fail and are hereby dismissed.