

WP(C) 6831/2010

BEFORE

HON'BLE MR. JUSTICE B.P. KATAKEY

Heard Mrs. Phukan, learned counsel for the petitioner and Mr. Deka, learned Standing Counsel, Education Department appearing for the respondents.

The petitioner, by the present petition has challenged the notice dated 9th December, 2010 issued by the Director of Secondary Education, Assam-cum-Member Secretary, State Selection Board, bringing to the notice of all concerned that all the eligible persons applied for selection to the post of Head Master/Head Mistress/Assistant Head Master/Superintendent/Assistant Superintendent of the provincialised High/High Madrassa Schools, should appear for an interview on the date fixed for that purpose.

The grounds of challenge to the said notice is that as the petitioner is discharging his duties as Head Master in-charge for a long period of time, he cannot be deprived from appearing in the process of selection initiated pursuant to the advertisement dated 2nd November, 2010, in response to which he has filed his application for selection. According to the petitioner, though he does not have the required B. Ed/BT degree, by virtue of long experience, he ought to have been allowed to appear in the selection process, which has not been done.

Rule 14(4) of the Assam Secondary Education (Provincialised) Service Rules, 2003 provides the eligibility criteria of the post of Head Master/Head Mistress/Assistant Head Master/Superintendent/Assistant Superintendent of the provincialised High/High Madrassa provincialised Schools. It provides that the minimum qualification for the said post shall be graduate in Arts/Science/Commerce with B.Ed/BT degree and the candidate must possess at-least 10(ten) years of teaching experience as graduate teacher. For the post of Assistant Head Master/Assistant Head Mistress/Assistant Superintendent, the requirement is 7(seven) years teaching experience as graduate teacher.

The petitioner, admittedly though is a graduate but he does not have the qualification of B.Ed/BT degree.

By the impugned notice dated 9th December, 2010, the Director has asked the persons, who are qualified, to appear in the interview, date for which have also been mentioned in the said notice. Since the petitioner does not have the required qualification, as stipulated in Rule 14(4) of the 2003 Rules, he cannot claim that he should be allowed to appear in the selection, unless relaxation has been given by the authority, in exercise of power conferred by Rule 30 of the 2003 Rules. The petitioner is yet to apply for relaxation under Rule 30 of the said rules.

That being the position, the prayer made in the present petition, in so far as it relates to the challenge to the impugned notice dated 9th December, 2010, cannot be granted. However, it would not preclude the petitioner from applying to the appropriate authority for relaxation of the rules under Rule 30 of the 2003 Rules and in the event any such application is filed and provided the authority has the power to relax the requisite educational qualification, the authority shall consider the same and pass necessary orders.

In the event of the approach by the petitioner, the respondent authority shall decide the matter, as expeditiously as possible, so that in case relaxation is granted, the petitioner is not deprived from appearing in the selection process.

The writ petition is accordingly disposed of. No cost.