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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Decided on: 23.05.2025***

+ W.P.(C) 12035/2024 & CM APPL. 50152/2024
SWAPNIL NARAYAN SARAWADE & ORS.Petitioner

Through: Mr. T.D. Yadav, Advocate.

versus

UNION OF INDIA THROUGH
ITS SECRETARY & ORS.Respondents

Through: Ms. Shreya Sinha, SPC for R-1.
Mr. Amartya A. Sharan & Mr.
Akash Kishore, Advocates for
NESTS/R-2.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

1. The petitioners have filed this petition under Article 226 of the Constitution, with regard to their candidature for the post of Trained Graduate Teacher [“TGT”] (Music), pursuant to an advertisement issued by National Education Society for Tribal Students [“NESTS”] in the year 2023.

2. By the said notification, NESTS sought to recruit teaching and non-teaching employees for several posts in the Eklavya Model Residential Schools, including 320 posts of TGT (Music). The dispute concerns the essential educational qualification for the said post, which was prescribed as follows:

“Essential Qualification:

*A Bachelors Degree with Music from a recognised University/
Institution.”*



3. The petitioners participated in the written examination and were issued provisional letters of appointment, subject to document verification. After document verification, however, their candidatures were rejected by separate communications dated 24.06.2024, which stated that they did not possess the required educational qualification and were, therefore, ineligible for the said post.

4. I have heard Mr. T.D. Yadav, learned counsel for the petitioners, and Mr. Amartya A. Sharan, learned counsel for NESTS.

5. The petitioners admittedly do not hold qualifications which are termed as Bachelor's degrees with Music. Their claims that they fulfil the prescribed eligibility conditions, instead originate from certificates recognising them as *Sangeet Visharad* or *Sangeet Prabhakar*, issued by institutions of good standing and repute. The certificates have been placed on record and in the case of each of the petitioners, are as follows:

PETITIONER NO.	PARTICULAR OF DEGREE	INSTITUTION DETAILS
1.	<i>Sangeet Visharad Examination – Recognised as Bachelors in Music</i>	<i>Akhil Bhartiya Gandharva Mahavidyalaya Mandal, Mumbai, Maharashtra</i>
2.	<i>Sangeet Prabhakar & Sangeet Visharad</i>	<i>Pracheen Kala Kendra, Chandigarh</i>
3.	<i>Sangeet Prabhakar Examination</i>	<i>Prayag Sangeet Samiti, Allahbad, UP</i>
4.	<i>Senior Diploma Examination/ Sangeet Prabhakar</i>	<i>Prayag Sangeet Samiti, Allahbad, UP</i>
5.	<i>Sangeet Visharad</i>	<i>Pracheen Kala Kendra, Chandigarh</i>
6.	<i>Senior Diploma Examination/ Sangeet Prabhakar</i>	<i>Prayag Sangeet Samiti, Allahbad, UP</i>



6. In support of the contention that these certificates are equivalent to Bachelor's degrees, the petitioners have placed on record certificates issued by the institutions themselves, stating that their courses are widely recognised and have been granted equivalence by several State Governments and Universities. The *Sangeet Visharad* qualification, according to the petitioners and the concerned institutions, has been recognised as a Bachelor's degree in Music.

7. There are two aspects to the qualification mentioned in the advertisement as far as this post is concerned, one is that the candidate must hold a "*Bachelor degree with Music*", and second is that the qualification must be "*from a recognised university/institution*". It is difficult to accept the petitioners' case on both these grounds.

8. The petitioners admittedly do not hold the Bachelor's "*degree*", as properly understood. The word "*degree*" is defined in Section 22(3) of the UGC Act, 1956 ["the Act"], as follows:

"22(3) For the purposes of this section, "degree" means any such degree as may, with the previous approval Central Government, be specified in this behalf by the Commission by the notification in the official Gazette."

Bachelor's degrees are included in the notifications issued by the Government under the said section, but the qualifications held by the petitioners are not. The requirement under the advertisement was of a "*Bachelor's degree*". Section 22(1) of the Act limits the right of conferring or grant of "*degrees*" only to "*universities*", and Section 2(f) of the Act provides that universities must be recognised by the UGC.

9. It is not contended that any of the institutions are recognised as universities, or were entitled to confer "*degrees*". The certificates issued



by them, therefore, do not fall within the definition of a “*Bachelor’s degree with Music*”, as required.

10. The contention with regard to equivalence of the qualification to a Bachelor’s degree is also one that lies outside the remit of the writ court. The advertisement in the present case was limited to the requirement of a “*Bachelor’s degree*”, and did not expressly contemplate equivalent qualification. In any event, the judgments of the Supreme Court in *Mukul Kumar Tyagi v. State of U.P.*¹ and *Zahoor Ahmad Rather vs. Imtiyaz Ahmed*², clearly hold that questions of equivalence are best left to employers to determine, with the interference of the writ court warranted only in cases of manifest arbitrariness or unreasonableness. I do not, in the facts of this case, discern any such arbitrariness or unreasonableness in the decision of the respondents, so as to call for an interference of the writ court.

11. The second aspect, of recognition of the university or institution, also comes in the petitioners’ way. The institutions in question are, as noted above, not recognised universities, and there is also no support for the contentions that the institutions are otherwise recognised statutorily or by an official process. The certificates issued by the institutions themselves can, in my view, not be determinative.

12. Mr. Yadav relies upon the judgment of the Supreme Court in *State of Bihar v. Bihar Rajya M.S.E.S.K.K. Mahasangh*³, which has been followed by the Orissa High Court in *Santanu Kumar Nayak and Anr. v.*

¹ (2020) 4 SCC 86, paragraph 59.

² (2019) 2 SCC 404, paragraph 26.

³ (2005) 9 SCC 129 [hereinafter, “*Bihar Rajya M.S.E.S.K.K. Mahasangh*”].



*State of Odisha & Ors.*⁴, and by the Central Administrative Tribunal in *Bhairvi Kumari & Ors. v. Kendirya Vidyalya Sangathan & Ors.*⁵ However, the said judgments, in my view, are also of little assistance to the petitioners.

13. The judgment in *Bihar Rajya M.S.E.S.K.K. Mahasangh* arose in the context of a claim for absorption by employees who were already working in colleges in the State of Bihar. The Supreme Court constituted a commission to identify existing employees who were not qualified for the positions they held and were, therefore, not entitled to absorption. It is in this context, that the commission recognised *Sangeet Visharad* examinations as being equivalent to a Bachelor's degree and, therefore, recommended that those teachers who have been employed on the strength of this qualification, may be absorbed in the successor institutions. The report was accepted by the Supreme Court, but the Supreme Court specifically noted that the commission had not expressed any view on the legal issues pending before the Court. The Supreme Court further held that the decision on absorption of the existing teaching and non-teaching staff was within the exclusive jurisdiction of the university, which would be taken based on the findings of the commission.

14. The judgment of the Orissa High Court in *Santanu Kumar Nayak* is also not applicable, as the provision of the advertisement specifically provided for educational qualifications to be subjected to equivalence, if the qualification was from an institution outside the State of Orissa. No

⁴ W.P.(C) 4766/2019 and connected matters, decided on 12.05.2023. [hereinafter, "*Santanu Kumar Nayak*"].



requirement of equivalence has been provided in the present case.

15. Mr. Sharan has drawn my attention to a recent judgment of this Court in *Aparna Mishra & Ors. vs. National Education Society for Tribal Students Through Commissioner & Anr. and connected matters*⁶, where a similar argument was considered with regard to the position of TGT (Art) under the same advertisement. This Court, while answering one of the issues, held that candidates possessing diplomas from Pracheen Kala Kendra, Chandigarh, do not fulfill the essential qualification of having a “*degree in Fine Arts/Crafts from a recognised university*” as prescribed in the advertisement for the post of TGT (Art). The Court noted that Pracheen Kala Kendra is not a recognised university under the UGC Act and cannot confer degrees, and that the determination of equivalence of qualifications lies within the domain of the employer.

16. For the aforesaid reasons, I am of the view that the decision of the respondent in the present case does not call for interference under Article 226 of the Constitution.

17. The writ petition, alongwith the pending application, is, therefore, dismissed.

PRATEEK JALAN, J

MAY 23, 2025

Ab/AD/

⁵ O.A. 2098/2023, decided on 01.11.2023.

⁶ W.P.(C) 9800/2024 and connected matters, decided on 26.03.2025.