

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 9198 / 2017

Shanti Lal S/o Shri Bura Lal, Aged About 25 Years, R/o Sakarapada, Gram Panchayat- Kanthav, Panchayat Samiti- Ghatole, Banswara.

----Petitioner

Versus

1. State of Rajasthan Through the Director, Elementary Education Rajasthan, Bikaner.

2. The District Education Officer (Elementary Education), Banswara.

3. The Chief Executive Officer, Zila Parishad, Banswara

----Respondents

Connected With

S.B. Civil Writ Petition No. 15582 / 2017

Divya Mala Yadav D/o Shri Mangi Lal Yadav, Aged About 25 Years, Resident of Ambedkar Colony, Ward No. 9, Village Kushalgarh, District Banswara.

----Petitioner

Versus

1. State of Rajasthan Through the Secretary, Department of Education, Government of Rajasthan, Secretariat, Jaipur.

2. The Director, Elementary Education, Bikaner.

3. The Chief Executive Officer, Zila Parishad, Banswara.

----Respondents

S.B. Civil Writ Petition No. 15780 / 2017

Bhurjee Maida S/o Shri Ter Singh Maida, Aged About 32 Years, R/o Gram- Khajura, Post- Kotra, Tehsil- Kushalgarh, Banswara.

----Petitioner

Versus

1. State of Rajasthan Through the Director, Elementary Education Rajasthan, Bikaner.

2. The District Education Officer (Elementary Education), Banswara.

3. The Chief Executive Officer, Zila Parishad, Banswara.

----Respondents

For Petitioner(s) : Mr.MA Siddiqui.

For Respondent(s) : Mr.Deepika Purohit for Mr.PR Singh, AAG.

Mr.Parvez for Mr.Rajesh Panwar, AAG.



HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI

Judgment

1 The controversy involved in these writ petitions is identical and hence, is decided by this common judgment.

2. Petitioners have preferred these writ petitions praying in sum and substance, for the following reliefs :-

"It is, therefore, most respectfully prayed that this writ petition may kindly be allowed, and by an appropriate writ, order or direction,

i) The respondents may kindly be directed to offer appointment to the petitioner on the post of teacher grade-iii in the category he has been selected while ignoring the order dated 05.07.2017 (Annex.7).

ii) Any other appropriate writ order or direction, which this Hon'ble Court deems fit and proper in the facts and circumstances of the case, may kindly be passed in favour of the petitioner."

3. Petitioners got their Diploma in Education/B.Ed. From Singhania University which was established under the Singhania University, Pacheri Bari (Jhunjhunu) Act, 2008 (for short 'the Act of 2008'). The petitioners thereafter participated in the

recruitment for the post of Teacher Grade-III in pursuance of the advertisement dated 06.07.2016. The petitioners' names were falling in the merit and were, therefore, offered appointment. The appointment is now being withheld by the respondents on count of the fact that the petitioners have obtained B.Ed./Diploma in Education from Singhania University.



4. Learned counsel for the petitioners has stated that the Singhania University has been established by the Act of State of Rajasthan i.e. the Act of 2008 and, therefore, it was not open for the State of Rajasthan to have denied consideration to the petitioners on count of non-recognition of Singhania University.

Counsel for the petitioners has also shown from the advertisement the condition that the qualification ought to be recognised by the State of Rajasthan.

5. The respondents have categorically averred that Diploma in Education/B.Ed. Obtained from Singhania University is not recognised by the National Council for Teacher Education (NCTE). NCTE has taken a decision in its 277th Meeting of the Northern Regional Committee held from 05th to 06th December, 2017 and relevant item no.290 reads as follows :-

"290. The matter regarding complaint against the Singhania University was considered by the Committee. The Committee decided to issue a public notice in the leading newspapers drawing attention of the public that Singhania B.Ed. College Pacheribari, Jhnujhunu, Rajasthan, affiliated to the University of Rajasthan has been granted recognition by NCTE for B.Ed. Course and no recognition for any Teacher Training course has been granted by NCTE

to the Singhania University.”

Thus, as per the counsel for the respondents, Singhania University B.Ed. College Pacheribari, Jhunjhunu was affiliated to the University of Rajasthan and was granted recognition by NCTE for B.Ed. Course but no recognition has been granted for Teacher Training Course.

6. Counsel for the petitioner has referred to a precedent law of this Court laid down in **S.B. Civil Writ Petition No.8149/2015 (Sohil Bishnoi & Ors. vs. State of Rajasthan & Ors.)** decided on 01.02.2018, which reads as follows :-

“This writ petition has been filed by the petitioners claiming the following reliefs:-

“It is, therefore, most respectfully prayed that this writ petition may kindly be allowed with costs and the respondents may kindly be directed to provide the registration form to the petitioners for the purpose of registration as ANM and GNM and issue the registration certificate in favour of the petitioners in accordance with law.

Any other appropriate relief which this Hon’ble Court may be deemed just and proper may also be given.”

The facts of the case in a nutshell are that the petitioners took admission in the General Nursing and Midwifery (hereinafter to be referred as ‘the GNM’) and Auxiliary Nursing and Midwifery (hereinafter to be referred as ‘the ANM’) courses in the respondent No.3- Singhania University, Jhunjhunu (hereinafter to be referred as ‘the respondent No.3-University’) and successfully completed the said courses in the year 2014. After that the petitioners underwent requisite training of six months in the different hospitals and obtained certificates in this regard and approached



respondent No.2-Rajasthan Nursing Council, Jaipur (hereinafter to be referred as 'the respondent No.2-RNC') under the Rajasthan Nurses, Midwives, Health Visitors and Auxiliary Nurse-Midwives Registration Act, 1964 (hereinafter to be referred as 'the Act of 1964') for registration but as per the petitioners, the respondent No.2-RNC refused to provide registration form to them without any reason. The petitioners served a legal notice to the respondent No.2-RNC, however, despite that nothing has been done by the respondent No.2-RNC. Hence, this writ petition.



Replies to the writ petition have been filed on behalf of the respondent No.1-State of Rajasthan and respondent No.2-RNC, wherein it is stated that since the respondent No.3-University is not recognized by the Indian Nursing Council, New Delhi (hereinafter to be referred as 'the INC'), the respondent No.2-RNC cannot register the petitioners as per the instructions issued by the INC.

Learned counsel for the respondent No.1-State and respondent No.2-RNC have relied upon the communication dated 19.08.2015 written to the respondent No.2-RNC by the INC, wherein it is stated that since the respondent No.3-University is not recognized by the INC, the RNC cannot register the persons, who have completed the courses of GNM and ANM from that University. The Communication dated 19.08.2015, annexed with the replies of the respondent No.1-State and respondent No.2-RNC is reproduced hereunder :-

“क्रमांक 7-1/2015-आई.एन.सी./27 दिनांक 19 AUG 2015
रजिस्ट्रार
राजस्थान नर्सिंग कौंसिल,
बी-39, सरदार पटेल मार्ग,
सी स्कीम, जयपुर, राजस्थान।

विषय : रजिस्ट्रेशन संबंधी दिशा निर्देश।

महोदय,

आपके पत्रांक आर.एन.सी./2015/3541 दिनांक 16 जुलाई 2015 के संदर्भ में आपको सूचित किया जाता है कि सिंघानिया विश्वविद्यालय भारतीय उपचर्या परिषद से मान्यता प्राप्त नहीं है, अतः उक्त विश्वविद्यालय से ए.एन.एम. व जी.एन.एम. का प्रशिक्षण प्राप्त अभ्यर्थियों का रजिस्ट्रेशन आपकी कौंसिल में नहीं किया जा सकता।

भवदीया,

सही/-

सचिव''



Reply to the writ petition has been filed on behalf of the respondent No.3-University, wherein it is stated that the respondent No.3-University is established by the Singhania University Ordinance 2007 replaced by Act No.6 of 2008 ("Singhania University Act") passed by the Rajasthan State Legislation and as per Section 2(f) of the University Grants Commission Act, 1956 (hereinafter to be referred as 'the Act of 1956'), the respondent No.3-University is a University established under the Act of 1956. It is further contended that the degrees and diplomas issued by the respondent No.3-University, which is established by a statute, are automatically recognized and there is no need of separate recognition from any institution including INC.

Learned counsel for the petitioners and learned counsel for the respondent No.3-University have relied upon the decision of Punjab and Haryana High Court rendered in **Ms. Neelam Devi & Anr. Vs. Haryana Nurses Registration Council & Ors. (Civil Writ Petition No.4021/2009)** decided on 19.02.2010 reported in **2010 158 PLR 323**.

Heard learned counsel for the parties.

It is not in dispute that the respondent No.3-University, from which the petitioners have passed the

GNM and ANM courses, is a University established under a statute.

Hon'ble Supreme Court in **Dr. B.L. Asawa Vs. State of Rajasthan & Ors.** reported in **AIR 1982 SC 933** has held that degree or diploma granted by a University, created by law or under the law, is not required to get recognition by other authority. The same view was taken by this Court in the decision dated 21.02.1991 rendered in **Mrs. Madhu Santosh Vs. State of Rajasthan (S.B. Civil Writ Petition No.2502/1989)** while relying on **Dr. B.L. Asawa's** case (supra).



The Punjab and Haryana High Court in **Ms. Neelam Devi's** case (supra), on the same point has held as under:-

“IV. Degree conferred by University established under an enactment in sui generis and self validating

5. It may be that the State of Haryana did not recognize the degree or the Indian Nursing Council Act of 1947 itself does not provide for a recognition but if there is a University established under the Act or Parliament or a State legislature and the University existed till the Act was struck down by a decision of the Hon'ble Supreme Court, the degree obtained through such a University would require no recognition from anybody. The recognition comes through the very fact that the institute that awarded the degree is established under a University through an enactment.

6. The effect of a degree through an institute affiliated to University and the non-necessity of obtaining approval from any other body was affirmed by the Hon'ble Supreme Court in **Bharathidasan University and another Versus All India Council for Technical Education and others - AIR 2001 Supreme Court 2861**, referring to a University established under the Bharthidasan University Act of 1981, a degree granted by University established, the Hon'ble Supreme Court held, was not required to seek prior approval of the All India Council for the Technical Education (AICTE) to start a department for imparting a course or programme in technical education.”

As stated earlier, it is not in dispute that the respondent No.3-University is a University established under the statute and, therefore, in view of the law

laid down in the above referred cases that a degree, diploma or any qualification awarded by any University, established under the statute, is automatically recognized and needs no recognition by any other authority, there is no hesitation in holding that the respondent No.2-RNC cannot refuse to register the petitioners under the provision of Act of 1964 on the ground that the respondent No.3-University, from which the petitioners have completed GNM and ANM courses, is not recognized by the INC.

Hence, this writ petition is allowed. The respondent No.2-RNC is directed to consider the request of the petitioners expeditiously preferably within a period of two months from the date of production of certified copy of this order, and if the petitioners are otherwise eligible, necessary registration be granted to them."

7. After hearing the counsel for the parties and after perusing the record, this Court finds that the precedent law cited by the learned counsel for the petitioner is absolutely covering the present dispute as this Court has held in the aforementioned precedent law that the respondent Singhania University is a University established under the Statute and, therefore, in view of the precedent law, it is automatically recognised and needs no recognition by any other authority and thus, this Court had granted consideration to the petitioners in that case while considering the said education to be recognised. This Court finds that the condition in the advertisement on the face of it requires the qualification to be obtained from any institution recognised by

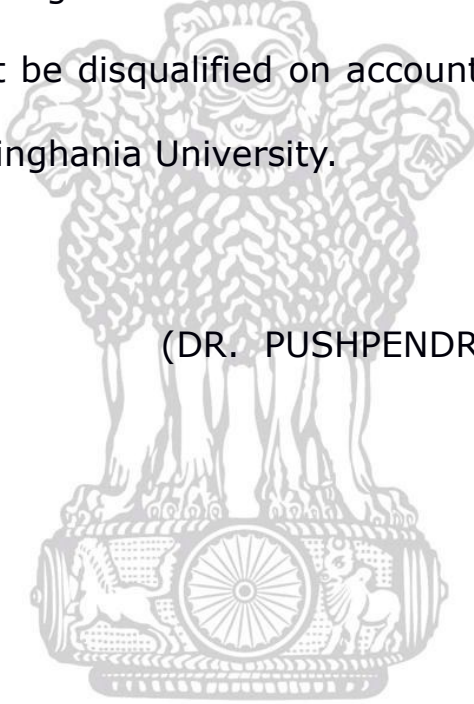
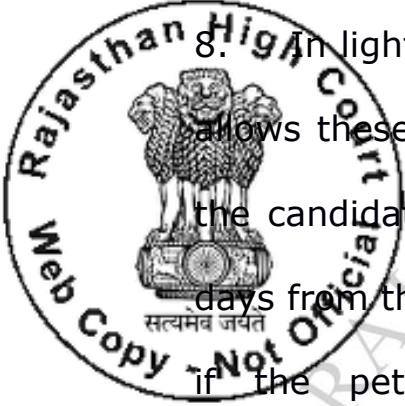


the State of Rajasthan and it is not in dispute that Singhania University has been created by Rajasthan Assembly by virtue of the Singhania University, Pacheri Bari (Jhunjhunu) Act, 2008 and thus, the State of Rajasthan cannot say that its statutory creation is not recognised by the State of Rajasthan.

8. In light of the aforementioned precedent law only, this Court allows these writ petitions and direct the respondents to consider the candidature of the petitioners within a period of two months days from the date of production of certified copy of this order and if the petitioners are otherwise eligible, then appropriate appointment may be granted to them. It is made clear that the petitioners shall not be disqualified on account of having obtained qualification from Singhania University.

(DR. PUSHPENDRA SINGH BHATI)J.

S.Phophaliya/-



सत्यमेव जयते