

**याचिका संख्या-50230 ऑफ 2003**

हरी ओम सिंह तोमर व अन्य बनाम् उ० प्र० सरकार

**आदेश दिनांक-20.04.2004**

- मुख्य बिन्दु-1.** डॉक्ट्रेट की उपाधि एम०फिल डिग्री से उच्च है
- 2.** अर्हता में छूट संबंधी बिन्दु संबंधित प्राधिकारी द्वारा किया जायेगा।

"Generally speaking, the mere fact that the respondent-authority has passed a particular order in the case of another person similarly situated can never be the ground for issuing a writ in favour of the petitioner on the plea of discrimination. The order in favour of the other person might be legal and valid or it might not be. That has to be investigated first before it can be directed to be followed in the case of the petitioner. If the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of his case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing a writ compelling the respondent-authority to repeat the illegality or to pass another unwarranted order."

8. It has been further observed by the Hon'ble Apex Court that :

"the High Court cannot ignore the law and the well-accepted norms governing the writ jurisdiction and say that because in one case a particular action has been taken, the same must be repeated irrespective of the fact whether such an order or action is contrary to law or otherwise. Each case must be decided on its own merits, factual and legal, in accordance with relevant legal principles.

In view of what has been noticed hereinabove, the submission made by the learned counsel for the petitioner is not, at all, acceptable."

9. The findings recorded by the Tribunal in the impugned order against the petitioner could not be demonstrated to be suffering from any such legal infirmity which may justify an interference by this Court in the instant proceedings. These findings are amply supported and warranted by the evidence and the material brought on record.

10. Taking into consideration the facts and circumstances as brought on

record in their totality, including those noticed by the Tribunal in the impugned order, we are not satisfied that sufficient ground can be said to have been made out for interference while exercising the extraordinary jurisdiction envisaged under Article 226 of the Constitution of India.

This writ petition is accordingly fails and is dismissed.

*Petition Dismissed.*

## ALLAHABAD HIGH COURT

[D.B.]

BEFORE :

M. KATJU AND R.S. TRIPATHI, JJ.

HARI OM SINGH TOMAR and others

Petitioners

*Versus*

STATE OF U.P. and others

Respondents

[C.M.W.P. No. 50230 of 2003, decided on 20th April, 2004]

**Appointment—Lecturer in Mathematics—Petitioners have passed their M. Phil. degree prior to 31.12.2002—No dispute that they have not passed N.E.T. nor have a doctorate degree—Eligibility is Ph.D. or N.E.T.—A doctorate degree is higher than M. Phil degree—It is not for the Court to grant exemption from N.E.T. to those who have not submitted Ph.D. thesis on or before 31.12.2002—In educational matters it is well settled that the Courts should not ordinarily interfere.**

[Para 7]

**Case Law :** AIR 1994 SC 679 ; JT 1992 (1) SC 583 ; JT 2003 (3) SC 531.

**Counsel :**

Ashok Khare and Aditya Kumar Singh for the Petitioners ; B.N. Singh, S.S.C. and S.C. for the Respondents.

## JUDGMENT

**BY THE COURT.**—Heard learned counsel for the parties.

2. The petitioners have passed their M. Phil. degree prior to 31.12.2002. However, there is no dispute that they have not passed the

National Eligibility Test (N.E.T.) nor have they a doctorate degree.

3. The petitioners applied for appointment as lecturer in mathematics against the advertisement No. 32 as mentioned in paragraphs 7 and 8 to the writ petition.

4. It is alleged in para 15 of the petition that a notification dated 31.7.2002 has been issued by the University Grants Commission which declares the candidates who have submitted their Ph.D. degree on or before 31.12.2002 as eligible, and exempts them from appearing in the N.E.T. examination. In case such candidates fail to obtain Ph.D. degree, they shall have to pass the N.E.T. examination.

5. The short submission of Sri Ashok Khare, senior counsel for the petitioner, is that the first amendment Regulation, 2002 has wrongly granted exemption from N.E.T. to only those who have submitted Ph.D. thesis on or before 31.12.2002. It fails to accord the same benefit to persons who have obtained M.Phil. degree on or before 31.12.2002.

6. Thus it is alleged that there is discrimination against the petitioners. It is alleged that earlier there existed a provision that those who obtained doctorate degree or M.Phil. degree prior to 31.12.1993 are both exempted from the requirement of the N.E.T.

7. In our opinion there is no merit in this petition. A doctorate degree is higher than a M.Phil. degree. It is not for this Court to grant exemption from N.E.T. to those who had not submitted Ph.D. thesis on or before 31.12.2002. In educational matters it is well settled that the Courts should not ordinarily interfere [vide *Chancellor v. Bijayanand Kar*, AIR 1994 SC 679, (para 9); *Bhushan Uttam Khare v. The Dean, B.J. Medical College*, JT 1992 (1) SC 583; *U.P. Public Service Commission v. Subhash Chandra Dixit*, JT 2003 (8) SC 531, etc.]. It is entirely for the concerned authority to decide whether to grant such exemption from N.E.T. or not. Thus there is no force in this petition and it is dismissed.

## ALLAHABAD HIGH COURT

[D.B.]

BEFORE :

**M. KATJU AND R.S. TRIPATHI, JJ.**

SARVA HITKARNI SAHKARI AVAS SAMITI LTD., ALLAHABAD Petitioner

Versus

STATE OF U.P. and others

Respondents

[C.M.W.P. Nos. 23552 of 1999 and 8829 of 1991, decided on 5th March, 2004]

**Land Acquisition Act, 1894—Sections 4, 6 and 17—Notification—Validity of—Challenged—Land acquired for public purpose for construction of a residential colony under Planned Development Scheme—Pressing urgency provision of Section 5-A is being dispensed with—As the matter is urgent and is for public purpose—No merit in the challenge of Notification under Sections 4 and 6—Law is well settled that any subsequent sale agreement to sell after the execution proceedings have begun does not bind the State and acquiring body—Non-delivery of award will not invalidate the acquisition proceedings—Disbursement of compensation is to be made by the Collector after satisfying himself regarding title and ownership of land.**

[Paras 11 to 14]

**Case Law :** 1997 (9) SCC 132.

**Counsel :**

Ravi Kant, Deo Raj, Amit Krishna, Govind Krishna, R.K. Srivastava, S. Hasnain, K.C. Srivastava and S.C. Dwivedi for the Petitioner; Sabhaya Yadav, A.K. Misra, U.K. Uniyal and S.C. for the Respondents.

## JUDGMENT

**M. KATJU, J.**—These two writ petitions are disposed of by a common judgment.

2. Heard learned counsel for the parties.

3. In Writ Petition No. 8829 of