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IN THE HIGH COURT OF MADHYA
PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE VISHAL DHAGAT
ON THE 22nd OF APRIL, 2024
WRIT PETITION No. 8402 of 2024

BETWEEN:-

EKLAVYA ADARSH AWASIYA VIDYALAYA ATITHI SHIKSHAK SANG, THROUGH ITS JOINT SECRETARY, AJAY KUMAR JAISWAL, S/O SHRI BARELAL JAYSWAL, AGED ABOUT 33 YEARS, JOINT SECRETARY OF PETITIONR'S SANGH, OCCUPATION- GUEST TEACHER, R/O H.NO.161, WARD NO.9, GARM DHUANDOL, POST BHADAURA, TAHSIL-MAJJHAULI, DISTRICT-SIDHI, MADHYA PRADESH.

.....PETITIONER

(BY SHRI UTKARSH AGRAWAL - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH, THROUGH ITS PRINCIPAL SECREATRY, TRIBAL WELFARE DEPARTMENT, VALLABH BHAWANT (MANTRALAYA), DISTRICT BHOPAL, M.P.
2. MADHYA PRADESH SPECIAL AND RESIDENTIAL ACADEMIC SOCIETY THROUGH ITS SECRETARY I.E. COMMISSIONER TRIBAL AFFAIRS GOVERNMENT OF M.P. DISTRICT (MADHYA PRADESH)
3. COMMISSIONER TRIBAL WELFARE DEPARTMENT GOVERNMENT OF M.P. O/O COMMISSIONER TRIBAL AFFAIRS CUM SECRETARY MADHYA PRADESH SPECIAL AND RESIDENTIAL ACADEMIC SOCIETY (MPSARAS) DISTRICT (MADHYA PRADESH)

4. NATIONAL EDUCATION SOCIETY FOR TRIBAL STUDENTS (NESTS) THROUGH ITS SECRETARY MINISTRY OF TRIBAL AFFAIRS GOVERNMENT OF INDIA JEEVAN TARA BUILDING PARLIAMENT STREET NEW DELHI (DELHI)

5. UNION OF INDIA MINISTRY OF TRIBAL AFFAIRS THROUGH ITS SECRETARY RAJENDRA PRASAD ROAD SHASTRI BHAWAN NEW DELHI (DELHI)

.....RESPONDENTS

(BY SHRI SUBODH KATHAR - GOVERNMENT ADVOCATE)

This petition coming on for admission this day, the court passed the following:

ORDER

Petitioner has filed this petition under Article 226 of the Constitution of India making a prayer to issue writ to respondents No.1 and 2 to give priority to petitioner's member while participating in selection of regular posts under EMRS in the interest of justice. It is also prayed that petitioner's members may not be insisted to go through a rigorous selection process every year for working as "Guest Teacher". Prayer is also made to consider the case of petitioner for regularization.

2. Prayer of petitioner for regularization cannot be considered by this Court as persons having same qualifications are also to be given opportunity to participate in regular selection process. If petitioners are regularized on the said post then similarly situated persons having same qualification will be deprived with the opportunity. Prayer of petitioner for regularization is not equitable. If petitioners are regularized then other aspirants will not have chance for competing for the post. Same will give

encouragement to backdoor entries, therefore, said prayer for regularization of Guest Teacher is dismissed.

3. Learned counsel appearing for the petitioner has also made a prayer that direction may be issued so that petitioner may not have to undergo the selection process each year for working as Guest Teacher. Said prayer of petitioner is covered by the order dated 26.04.2022 passed by Division Bench of this Court in **WP No.6159/2022 {Pradeep Kumar Yadav and another Vs. State of Madhya Pradesh and others}**.

4. Learned Government Advocate opposed the writ petition and submitted that reliefs prayed for by petitioner is inequitable and antithetic to equality. It is also submitted that exams are conducted for testing the eligibility and other qualification of Guest Teacher, therefore, petition may be dismissed.

5. Heard the counsel for the parties.

6. Some of the reliefs prayed for by petitioner in this petition is directly covered by judgment passed in case of **Pradeep Kumar (supra)**.

In view of same, writ petition is disposed off with following directions:-

1. Respondents are directed to continue the petitioner on post of "Guest Teacher" until fresh regular appointments are made for the said post.

2. Petitioner shall not be subjected to repeated test of eligibility and suitability for appointment to post of Guest Teacher, if once he has undergone the test.

3. Right of State is retained to terminate a Guest Teacher as per the contract agreement or if he does not perform his duty

properly.

4. Guest Teacher can be discontinued for reasons of incompetence as per agreement clause.
7. With aforesaid directions, petition is ***disposed off.***

(VISHAL DHAGAT)
JUDGE

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