

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

**Rev.I.A.No.1 of 2021 in W.P.No.16670 of 2019,**

**Rev.I.A.No.1 of 2021 in W.P.No 19565 of 2019,**

**Rev.I.A.No.1 of 2021 in W.P.No 19628 of 2019,**

**Rev.I.A.No.1 of 2021 in W.P.No 20548 of 2019,**

**Rev.I.A.No.1 of 2021 in W.P.No 21596 of 2019,**

**Rev.I.A.No.1 of 2021 in W.P.No 1908 of 2020,**

**Rev.I.A.No.1 of 2021 in W.P.No 2065 of 2020,**

**Rev.I.A.No.1 of 2021 in W.P.No 2827 of 2020,**

**Rev.I.A.No.1 of 2021 in W.P.No 3966 of 2020,**

**Rev.I.A.No.1 of 2021 in W.P.No 4190 of 2020,**

**Rev.I.A.No.1 of 2021 in W.P.No 13461 of 2020,**

**Rev.I.A.No.1 of 2021 in W.P.No 14983 of 2020,**

**Rev.I.A.No.1 of 2021 in W.P.No 16407 of 2020**

**and**

**Rev.I.A.No.1 of 2021 in W.P.No 17338 of 2020**

**COMMON ORDER:**

By G.O.Ms.No.110 Panchayat Raj & Rural Development (MDL-I) Department, dated 19.07.2019, the Government of Andhra Pradesh, created Village Secretariats for every village. This G.O provided for the appointment of various functionaries for the Village Secretariats including the posts of Horticulture Assistants. Clause-14(vi) of G.O.Ms.No.110 specified that the recruitment of the functionaries of such secretariats would be done in accordance with the respective

Service Rules of the respective departments. At that stage, there was no post called Village Horticulture Assistants in the concerned service rules. However, there were recruitments for the posts of Horticulture MPEOs, which were temporary posts for which, qualifications had been given. Any person interested in applying for the post of Horticulture MPEOs was required to possess any one of the four qualifications given herein below:

1. Must possess 4 years B.Sc Horticulture/B.Sc (Hons) Horticulture/B.Tech.Horticulture from any University accredited by the Indian Council of Agricultural Research (ICAR), Ministry of Agriculture and Farmers Welfare, Govt., of India, New Delhi (or) any University recognized in the State.
2. Must possess 2 years Diploma in Horticulture (from Dr.YSRHU/ANGRAU recognized).
3. Working as MPEOs/MIAOs/MIDCs in the Department of Horticulture with B.Sc. (BZC) Degree (or) B.Sc (or) M.Sc with Horticulture as one of the subjects (or) 4 years B.Sc (Horticulture) Degree from any University recognized by UGC (or) 10+2 with one year Diploma with Horticulture in ANGRU. On

selection these candidates should acquire 2 years Diploma in Horticulture to get eligibility for promotion to the next cadre.

4. Working as Horticulture Field Consultants/Horticulture Technical Assistants/Horticulture Officers/Horticulture Assistant Programme Officers in ITDA areas with B.Sc. (BZC) Degree/ B.Sc (or) M.Sc with Horticulture as one of the subjects. On selection these candidates should acquire 2 years Diploma in Horticulture to get eligibility for promotion to the next cadre.

2. By Notification No.01/Hoti/2019, dated 26.07.2019, applications were called from eligible candidates for various posts including Village Horticulture Assistants, Para-3 of the notification stipulated qualifications 1 and 2 only. Para 3-A was added to permit qualifications 3 and 4 also. However, these additional qualifications were available only to MPEOs/MIAOs and Field Consultants, who were already working in the Department of Horticulture.

3. The candidates who possessed qualifications 3 and 4 (more particularly qualification 4) being aggrieved by the restriction of qualifications 3 and 4 to MPEOs/MIAOs and

Field Consultants etc., challenged the notification by way of various writ petitions. Even while those writ petitions were pending, a fresh notification bearing No.01/Hoti/2020, dated 10.01.2020 was issued for filling 1783 posts of Village Horticulture posts which had remained vacant after the recruitment under the earlier notification had been completed. Even this notification was challenged on account of the fact that the benefit of qualifications 3 and 4 were reserved to MPEOs/MIAOs and Field Consultants. It may also be noticed that initially only qualifications 1 and 2 were available in the notification of 10.01.2020. However, by way of a corrigendum, qualifications 3 and 4 were brought in with the stipulation that they would be applicable only to MPEOs/MIAOs. Subsequently, it appears that the Government had withdrawn qualifications 3 and 4 totally.

4. When these matters came up for hearing before this Court, the earlier Judgment of this Court in W.P.No.15504 of 2019 was placed before this Court. The grievance of the petitioner in that writ petition was that he was not being allowed to apply for the post of Horticulture Assistant even

though he possessed B.Sc (BZC) (4<sup>th</sup> qualification). The said writ petition was dismissed on the ground that only MPEOs/MIAOs and Field Consultants were given the benefit of that qualification and as the petitioners were neither an MPEOs/MIAOs or Field Consultants, the said provision would not be applicable to the petitioners.

5. In view of the said decision, the present set of writ petitions were dismissed on two grounds;- Firstly, the challenge to the notification No.01/Hoti/2019, dated 26.07.2019 was rejected on the ground that same issues had arisen before the Court in W.P.No.15504 of 2019 and the said decision of the learned Single Judge would be binding. Secondly, the challenge to the notification of 10.01.2020 was rejected on the ground that the additional qualification Nos.3 and 4 set out above were not available even to MPEOs/MIAOs and Field Consultants as the subsequent notification issued to include these two qualifications was again rescinded and the said qualifications were not available to the MPEOs/MIAOs and Field Consultants.

6. After the dismissal of these Writ Petitions, the present review petitions have been filed. The grounds taken in the review petitions are that the petitioners in W.P.No.15504 of 2019 had not challenged the notification prescribing the qualification whereas the present batch of writ petitions were filed challenging the notification itself to the extent of not applying the qualification B.Sc (BZC) while considering the case of other persons having the same qualifications. However, this court had not noticed the crucial difference and had applied the earlier judgement to the facts of this case. It is further submitted that the said oversight by this Court has caused injustice to the petitioners and requires to be reviewed.

7. Heard Sri Ghanta Rama Rao, learned Senior Counsel appearing for Sri Venkateswarlu Gadipudi, learned counsel for the petitioners and Sri N. Aswathanarayana, learned Government Pleader for Services-I.

8. Sri Ghanta Rama Rao, learned Senior Counsel appearing for Sri Venkateswarlu Gadipudi, learned counsel for the petitioners, submits that the distinction between the facts in W.P.No.15504 of 2019 and facts in the present case could

not be placed before this Court as the relevant information was not available at the time when the cases came up for hearing. Sri Ghanta Rama Rao, learned Senior Counsel took this Court through all the G.Os and notifications to essentially contend that the discrimination between persons, who hold the same educational qualifications, solely on the ground that one section of these persons had earlier worked in the temporary posts of MPEOs/MIAOs and Field Consultants violates Article 14 of the Constitution of India as the twin requirements, of discernible difference between two groups of people, and the discernible difference being based on the purpose to be achieved by such differentiation do not arise in the present case. He submits that there can be no discrimination between persons with the same educational qualifications, solely on the ground that some of them had been appointed to some temporary posts as MPEOs earlier. He submits that the essential distinction between the facts in W.P.No.15504 of 2019 and the facts in the present case had not been placed before this Court as the information was not available and as

such, this Court, who reviewed the earlier order, dated 22.12.2020 in W.P.No.1908 of 2020 and batch.

9. Sri N.Aswatha Narayana, learned Government Pleader for Services-I relies upon the Judgments of the **Parsion Devi and Ors., vs. Sumitri Devi and others<sup>1</sup>, Kamlesh Verma vs. Mayawati and Others<sup>2</sup>, Ram Sahu (Dead) Through LRs and others vs. Vinod Kumar Rawat and Others<sup>3</sup>** to contend that the grounds raised in the review petition are not germane or sufficient to cause a review of the earlier order of this Court. Sri N.Aswatha Narayana, learned Government Pleader for Services-I submits that a review would be permissible only in accordance with the provisions of order 47 Rule 1 of C.P.C. He would submit that the grounds raised by Sri Ghanta Rama Rao are the grounds which have already been raised in the initial hearing of the Writ itself and no new grounds have been raised in the review petition to require a review.

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<sup>1</sup> (1997) 8 SCC 715

<sup>2</sup> (2013) 8 SCC 320

<sup>3</sup> 2020 SCC online SC 896



10. Rule 24 of the Writ rules states that the provisions of the Code of Civil Procedure will be applicable to writ proceedings. Accordingly, the provisions of Order 47 rule 1 of C.P.C. would be applicable. The Hon'ble Supreme Court in **Ajit Kumar Rath Vs. State of Orissa**<sup>4</sup> set out the following principles on review:

- i) The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a civil court under Section 114 read with Order 47 Rule 1 CPC.
- ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.
- iii) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.

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<sup>4</sup> (1999) 9 SCC 596

- iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(f).
- v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.
- vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or large Bench of the tribunal or of a superior court.
- vii) While considering an application for review, the tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken notice of for declaring the initial order/decision as vitiated by an error apparent.
- viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the

same could not be produced before the court/tribunal earlier”.

11. In the present case, though Sri Ghanta Rama Rao, learned Senior Counsel appearing for the petitioners had elaborately argued the case afresh, it cannot be said that any new ground of challenge had been raised. The only ground for considering the present application for review is the ground that the petitioners have not challenged the Notification No.01/Hoti/2019, dated 26.07.2019 in W.P.No.15504 of 2019 while the said notification was challenged in the present set of writ petitions.

12. This ground also would not be sufficient for conducting a review of the earlier order in as much as, the principle cited by the learned Single Judge in W.P.No.15504 of 2019 was that the benefit of qualifications 3 and 4 would not be available to the petitioners therein on the ground that they were not MPEOs. The principle implicit in the decision of the learned Single judge was that the stipulation that a person who was an MPEO was sufficient to make out a discernible difference and such a stipulation was sufficient to non suit the petitioners

therein. That principle would apply on all fours in the present case also. In the event of an erroneous decision, the remedy is an appeal to a higher forum. The remedy of review would be available only if there is an error apparent on the face of the record. Such an error apparent on the face of the record has not been made out in the present case.

13. In the circumstances, I do not find any ground to accept the prayer of the petitioner for a review of the earlier Judgment of this Court dated 22.12.2020.

14. Accordingly, the Review Petitions are dismissed.

13.07.2021

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**R. RAGHUNANDAN RAO, J**

RJS

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

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**RJS****13<sup>th</sup> day of July, 2021**