

**UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
AT DEHRADUN**

Present: Sri V.K. Maheshwari

----- Vice Chairman (J)

&

Sri D.K. Kotia

----- Vice Chairman (A)

**CLAIM PETITION NO. 130/2008**

Prayag Dutt Dhaundhiyal S/o Shri Keshav Dutt Dhaundhiyal Forest  
Guard, Dharasoo Range, Uttarkashi Forest Division, Kot Bangla,  
Uttarkashi.

.....Petitioner

**VERSUS**

1. State of Uttarakhand through Secretary, Forest, Secretariat,  
Dehradun,
2. Divisional Forest Officer, Upper Yamuna Van Prabhag, Barkot,  
District Uttarkashi.

.....Respondents

Present: Sri Shashank Pandey, Counsel  
for the petitioner  
Sri Umesh Dhaundiyal, A.P.O.  
for the respondents

**JUDGMENT**

**DATE: AUGUST 26, 2015**

**DELIVERED BY SRI D.K.KOTIA, VICE CHAIRMAN (A)**

1. The present claim petition has been filed for seeking the  
following relief:

- “(a) To cancel the impugned order No. 3/13-3-1, dated July 29, 2003 passed by the Divisional Forest Officer, Upper Yamuna Forest Division.*
- (b) To issue any other directions that the Hon’ble Court deems fit.*
- (c) To pay the cost of the petition to the petitioner.”*

2. The relevant facts in brief are that the petitioner was initially appointed as Orderly (Group-D post) in 1982. The petitioner had passed ‘Prathma’ and ‘Madhyama’ examinations of Hindi Sahitya Sammelan, Allahabad in the year 1991 and 2001 respectively. (Annexure: 2).

3. The petitioner was promoted to the post of Forest Guard vide order dated 21.11.2001 (Annexure:3).

4. Later on, vide order dated 29.7.2003 (Annexure: 1) the promotion of the petitioner was cancelled and he was reverted to his original post of orderly.

5. The reason which has been stated in the above order dated 29.7.2003 was that the petitioner did not possess the minimum prescribed qualification of ‘High School’ for promotion to the post of Forest Guard.

6. Aggrieved by the cancellation of promotion, the petitioner approached the Hon’ble High Court and the Hon’ble Uttarakhand High Court dismissed the petition/ appeal of the petitioner on the ground of alternative remedy before the State Public Services Tribunal. Thereafter, the petitioner has filed this claim petition before the Tribunal.

7. Admittedly, the minimum qualification for promotion from the post of Orderly to the post of Forest Guard is 'High School'. While rejecting the representation of the petitioner, Respondent No. 2 held that the petitioner does not possess requisite qualification of 'High School'.

8. The petitioner in his claim petition has contended that he possesses 'Prathma' and 'Madhyama' certificate of Hindi Sahitya Sammelan, Allahabad and 'Prathma' and 'Madhyama' certificates are equivalent to 'High School' and 'Intermediate' examinations. Respondent No.2 in his order dated 29.7.2003 (Annexure: 1) has held that 'Prathma certificate is not equivalent to 'High School' examination.

9. The petitioner in his claim petition has mainly contended that the Ministry of Human Resource Development, Government of India vide Notification dated 26.7.2001 has recognized 'Prathma' equivalent to 'Matriculation' for the purpose of employment (Annexure: 6 E). The said notification is reproduced hereunder:

*“Government of India  
Ministry of Human Resource Development  
(Department of Secondary & Higher Education)  
New Delhi, the 26<sup>th</sup> July, 2001*

**NOTIFICATION.**

*No. F.24-1/2001-TC. On the recommendation of the High Level Committee for recognition of Educational Qualifications, the Government of India have decided to recognize the Prathma Examination being conducted by Hindi Sahitya Sammelan, Allahabad for the purpose of employment under the Central Government for the post for which the desired qualification is a pass in matriculation. The recognition is provisional for a period of 3 years*

*after which the committee will review the recognition granted.*

*(V.S. Pandey)*

*Joint Secretary (T) &  
Member Secretary,  
High Level Committee  
for Educational Qualifications.”*

10. Respondent No. 2 while rejecting representation of the petitioner has also taken cognizance of the letter of the Additional Director of Education, Government of Uttarakhand dated 24.10.2002 (Annexure: R-3 to the written Statement), which clarifies that ‘Prathma’ and ‘Madhyama’ examinations of Hindi Sahitya Sammelan, Allahabad are not equivalent to the ‘High School’ and ‘Intermediate’ examinations. The said letter is reproduced below:

“प्रेषक,

अपर शिक्षा निदेशक,  
शिविर कार्यालय, देहरादून।

सेवा में,

जिला विद्यालय निरीक्षक,  
उत्तरांचल।

पत्रांक/शिविर/14243-60/2002-03 दिनांक 24-10-2002

विषय:— हिन्दी साहित्य सम्मेलन इलाहाबाद द्वारा संचालित परीक्षाओं की मान्यता के सम्बन्ध में।

महोदय,

उक्त विषय के क्रम में सूच्य है कि हिन्दी साहित्य सम्मेलन इलाहाबाद द्वारा संचालित प्रथमा, मध्यमा एवं अन्य उच्चतर परीक्षायें माध्यमिक शिक्षा परिषद द्वारा संचालित हाईस्कूल एवं इण्टरमीडिएट परीक्षा के समतुल्य मान्य है अथवा नहीं इस सम्बन्ध में जनसाधारण द्वारा समय-समय पर निदेशालय से जिज्ञासा की जा रही है।

जनसाधारण की जिज्ञासा के संदर्भ में अवगत कराना है कि इण्टरमीडिएट शिक्षा अधिनियम 1921 के अध्याय-12 विनियम 17(4) क में वर्णित समकक्षता सूची में उक्त संस्था द्वारा आयोजित परीक्षायें सम्मिलित नहीं है अतः स्पष्ट है कि हिन्दी साहित्य सम्मेलन उत्तर प्रदेश इलाहाबाद द्वारा संचालित परीक्षायें प्रथमा, मध्यमा एवं अन्य कोई भी उच्चतर परीक्षा

उत्तरांचल विद्यालयी शिक्षा एवं परीक्षा परिषद में हाईस्कूल/इण्टरमीडिएट के समकक्ष मान्य नहीं है। इसी जिज्ञासा के परिपेक्ष में सचिव माध्यमिक शिक्षा परिषद, उत्तर प्रदेश इलाहाबाद से भी जानकारी चाही गई जिसके कम में सचिव माध्यमिक शिक्षा परिषद उत्तर प्रदेश इलाहाबाद ने अपने अर्द्धशासकीय पत्रांक 210 दिनांक 30-7-2002 जो जिला विद्यालय निरीक्षक उत्तर प्रदेश को सम्बोधित की गई है की प्रति उपलब्ध कराते हुए स्थिति को स्पष्ट किया है कि हिन्दी साहित्य सम्मेलन इलाहाबाद द्वारा संचालित प्रथमा, मध्यमा एवं अन्य उच्चतर परीक्षायेँ हाईस्कूल एवं इण्टरमीडिएट स्तर के समतुल्य/समकक्ष माध्यमिक शिक्षा परिषद को न तो पूर्व में मान्य थी और नहीं ही वर्तमान में मान्य है।

अतः हिन्दी साहित्य सम्मेलन इलाहाबाद द्वारा संचालित प्रथमा, मध्यमा एवं अन्य उच्चतर माध्यमिक परीक्षा उत्तीर्ण अभ्यर्थियों को उत्तरांचल के कक्षा- 09 को छोड़कर कक्षा 10 अथवा कक्षा 11 में कदापि प्रवेश न दिया जाय। यदि इस प्रकार के अनियमित प्रवेश पूर्व में कर लिए गये हों तो उन्हें तत्काल निरस्त कर दिया जाय ऐसा न करने पर सम्पूर्ण उत्तरदायित्व सम्बन्धित छात्र/छात्रा का एवं प्रवेश देने वाले प्रधानाचार्य/प्रधानाचार्या एवं सम्बन्धित संस्थाध्यक्ष का होगा। कृपया निर्देशों का कड़ाई से पालन किया जाना सुनिश्चित करें तथा अपने अधीनस्थ समस्त प्रधानाचार्यों को अवगत कराने का कष्ट करें।

भवदीय,

(श्रीमती पुष्पा मानस)

अपर शिक्षा निदेशक, उत्तरांचल

शिविर कार्यालय, देहरादून।

11. The petitioner has also contended in his claim petition that the representation submitted to Respondent No. 2 has been cursorily rejected by completely misreading and misinterpreting the judgment of the Hon'ble Supreme Court (Civil Appeal No. 4119 of 2002, State of Rajasthan Vs. Lata Arun-AIR 2002, S.C., 2642).

12. Respondents in their joint written statement have opposed the claim petition. The contention in the written statement is that 'Prathma' is not recognized as equivalent to 'High School' by the State of Uttar Pradesh or by the State of Uttarakhand.

13. It has further been stated in the written statement that the grant of recognition is the sole domain of the State Government through the Department of Education and the Government of Uttarakhand has not recognized 'Prathma' and 'Madhyama' equivalent to 'High School' and 'Intermediate'. Respondents have filed the Annexure (R-3) which is a letter of the Additional Director, Education, Government of Uttarakhand to all the District Inspector of Schools (DIOS) of Uttarakhand communicating the same. This letter has already been reproduced in paragraph no. 10 of this order.

14. It has also been admitted in the written statement that an employee junior to the petitioner was promoted but the petitioner was not promoted because he did not possess the requisite qualification of 'High School'. He had 'Prathma' and 'Madhyama' qualification of Hindi Sahitya Sammelan, Allahabad which is not recognized by the State of Uttarakhand as equivalent to the 'High School' and, therefore, he was not eligible for promotion.

15. A rejoinder affidavit has been filed on behalf of the petitioner, in which the averments made in the claim petition are reiterated. A Government Order dated 22.8.1998 has also been enclosed as Annexure RA-1.

16. Respondents have also filed the following letter with the Additional Counter Affidavit as Annexure: 1 to the Additional Counter Affidavit:

“प्रेषक,

एल०एम०पन्त,  
अपर सचिव,  
उत्तरांचल शासन।

सेवा में,

जिला मजिस्ट्रेट,  
टिहरी गढ़वाल

वित्त अनुभाग-6

देहरादून: दिनांक: 25 अक्टूबर, 2006

विषय:— हिन्दी साहित्य सम्मेलन इलाहाबाद द्वारा संचालित परीक्षाओं की मान्यता।

महोदय,

मा0 उच्च न्यायालय उत्तरांचल, नैनीताल में संस्थित रिट याचिका संख्या-1128(एस0एस0)/2006, दिनेश प्रसाद थपलियाल बनाम राज्य एवं अन्य के सम्बन्ध में मा0 उच्च न्यायालय द्वारा पारित आदेश दिनांक 21.08.2006(प्रति संलग्न) के अनुपालन में मुझे यह कहने का निदेश हुआ है कि शासन के पत्र संख्या 410/XXVII(4)/2004 दिनांक 29.11.2004 द्वारा तत्कालीन जिलाधिकारी, टिहरी का पत्र दिनांक 21-07-2004 के सन्दर्भ में यथा समय ही अवगत कराया जा चुका है कि उत्तरांचल इन्टरमीडिएट शिक्षा अधिनियम 1921 के अध्याय-12 विनियम-17(4)-क में वर्णित समकक्षता सूची में उक्त संस्था द्वारा आयोजित परीक्षाएं सम्मिलित नहीं की गयी हैं।

उक्त के क्रम में शिक्षा विभाग द्वारा निर्गत अधिसूचना संख्या 685/माध्यमिक/2002 दिनांक 12.07.2002 द्वारा इन्टरमीडिएट शिक्षा अधिनियम, 1921 को उत्तरांचल राज्य में अंगीकृत किया गया है। इस प्रकार हिन्दी साहित्य सम्मेलन इलाहाबाद द्वारा आयोजित परीक्षाएं प्रथमा, मध्यमा, एवं अन्य उच्चतर परीक्षाएं उत्तरांचल राज्य में हाईस्कूल/इन्टरमीडिएट के समकक्ष न तो पहले मान्य थी, और न अब मान्य है। कृपया तदनुसार इस सम्बन्ध में आवश्यक एवं अपेक्षित कार्यवाही सुनिश्चित कर शासन को अवगत कराने का कष्ट करें।

संलग्नक: उक्तानुसार।

भवदीय

(एल0एम0 पन्त)

अपर सचिव

17. We have heard learned A.P.O. for the Respondents. Learned counsel for the petitioner was granted opportunity and adjournment many times for hearing. He did not put forward oral submission. Lastly an opportunity in the interest of justice for filing written submissions was also granted. The same were also not filed. We have gone through all the records carefully.

18. The moot question before us is to examine whether 'Prathma' and 'Madhyama' qualifications' of Hindi Sahitya Sammelan, Allahabad are equivalent to 'High School' and 'Intermediate' or not.

19. The Hon'ble High Court at Allahabad and the Hon'ble High Court at Nainital have considered this question in many cases and consistently held that 'Prathma' and 'Madhyama' examinations of Hindi Sahitya Sammelan, Allahabad are not equivalent to the 'High School' and 'Intermediate' examinations.

20. Hon'ble High Court of Uttarakhand in *Writ Petition No. 6928 of 2001 (S/S), Shri Heera Singh Bhandari Vs. District Inspector of Schools, Nainital and another decided on 11.9.2007--2007(2), U.D. 691-* has held as under:

*"7. Chapter XIV of Regulations under U.P. Intermediate Education Act, provides which of the examinations can be said to be equivalent to the High School examination for the purposes of entitling a person to appear in Intermediate Examination. Regulation 2 of said Chapter recognizes some 70 certificates issued by various Boards and Universities and examination bodies, but there is no mention of Hindi Sahitya Sammelan in said Rule, as such this Court has no hesitation in holding that the certificates of Prathama and Madhyama (Visharad), issued by the Hindi Sahitya Sammelan, Prayag, are not recognized in the State of Uttar Pradesh and State of Uttarakhand as equivalent to High School examination or Intermediate examination.*

8. A Division Bench of this Court in *Shailendra Singh and Ors. v. State of Uttaranchal and Ors. 2007 (1) UD 155*, has held that the degrees of 'Shiksha Visharad' issued by Hindi Sahitya Sammelan,



*Allahabad, are not recognized certificates equivalent to B. Ed. Examination. In **Babu Ram and Anr. v. Deputy Cane Commissioner, Moradabad and Ors.** 2000 (1) AWC 862, learned Single Judge of Allahabad High Court has held that certificate of Prathama issued by Hindi Sahitya Sammelan, Allahabad, is not equivalent to the certificate of High School. In said case, the Court upheld the reversion of Petitioner from the post of Seasonal Clerk to the post of Parchi Vitrak (Slip Distributor), on detection that promotion was made treating certificate of Prathama equivalent to that of High School. A Division Bench of the same Court in **Udai Veer Singh Yadav and Ors. v. Union of India and Ors.** 2003 (50) ALR 575, again held in another case that on the basis of certificate issued by Hindi Sahitya Sammelan, Allahabad, a person has no right to practice as medical practitioner, after the certificates of Hindi Sahitya Sammelan, Allahabad were de-recognized in the year 1967. On the basis of aforementioned cases read with the case of **State of Rajasthan v. Arun Lata AIR 2002 SC 2642**, this Court has no hesitation in holding that certificates of Prathama and Madhyama issued by Hindi Sahitya Sammelan, Allahabad, are not equivalent to High School or Intermediate (XII standard) of U.P. Board.”*

21. Hon’ble High Court of Allahabad in **Special Appeal No. 1731 of 2010, Urmila Devi Vs. State of U.P. and another—Hon’ble Sunil Ambani, J and Hon’ble Pankaj Mittal, J, 2012(1) ADJ 346** decided on 11.11.2011, has held as under:

“12. The question whether the Madhyama examination conducted by the Hindi Sahitya Sammelan Prayag, Allahabad is equivalent to Intermediate Examination conducted by the U.P. Secondary Education Board, Allahabad is no longer *res integra*. This Court has time and again considered this question and consistently returned the findings that the

*Madhyama (Visharad) examination of Hindi Sahitya Sammelan, Allahabad is not equivalent to the Intermediate Examination conducted by the U.P. Secondary Education Board, Allahabad. The judgments of this Court considering the question are as follows:*

**(1) In Sarojani Pandey (Smt.) v. State of U.P. & Ors., (2003) 2 UPLBEC 1129** learned Single Judge of this Court relied upon Government Order dated 28th October, 1998, wherein it was clearly stated that examinations of Prathama and Madhyama conducted by the Hindi Sahitya Sammelan, Allahabad are not equivalent to the High School and Intermediate examination conducted by the Board of High School and Intermediate Education U.P. Allahabad. The Court found that this is the latest order will prevail over the Government Order dated 22nd August, 1998 issued by the Joint Secretary U.P. Government addressed to Director of Education, Allahabad as well as order dated 26th July, 2001, of the Government of India.

**(2) In Kunwar Herash Saran Saxena v. State of U.P. & Anr., Writ Petition No. 8579 of 1992 decided on 6.12.2005** learned Single Judge of this Court observed in paras 3 and 6 as follows:-

3. *The controversy in the facts and circumstances of the present case is confined to the issue as to whether the certificate of Madhyama Visharad obtained by the petitioner from Hindi Sahitya Sammelan satisfies the minimum academic qualifications prescribed for appointment on the post of Junior Clerk. As provided for*

*under the Adhinasth Karyalaya Lipik Vargiya Karmcharivarg (Seedhi Bharti) Niyamavali, 1985 or not. Hindi Sahitya Sammelan has been established under the Hindi Sahitya Sammelan Act, 1962 and Section 22 of the University Grants Commission recognises a right in the said Hindi Sahitya Sammelan to award degrees. As a matter of fact University Grants Commission has notified certain degrees awarded by Hindi Sahitya Sammelan vide notification dated 21.8.2003. However, on record there are various government orders issued by the Central Government recognising the certificate for the purposes of appointment in government service, reference (Notification dated 26.7.2001 Annexure-3 to Rejoinder Affidavit and Notification dated 16.9.1990 Annexure-5 to Rejoinder Affidavit). However, it may be noticed that Government of India had appended a note which reads as follows : The recognition recorded above is not to be treated equivalent to the full fledged certificate/degree for which it has been equated (Annexure-6 to the Writ Petition).*

*6. The petitioner has not been able to bring on record any document for establishing that the certificate possessed by the petitioner from the Hindi Sahitya Sammelan was ever recognised as equivalent to intermediate examination by the Governor of the State. All the documents brought on record by the petitioner issued by the Central Government*

*or any of the authority are of no consequence for determination of the issue concerned.*

**(3) In Pradeep Kumar son of Mukandi Lal v. State of U.P. & Ors.** *this Court once again decided the issue on 23.1.2008 and held as follows:*

*8. Learned Counsel for the respondents has placed reliance on judgment of this Court reported in (2004) 2 UPLBEC 1716; Shailendra Kumar Singh v. State of U.P. and Ors. The question which was considered in the above case, was as to whether degree of Shiksha Visharad given by Hindi Sahitya Sammelan is equivalent to be treated as B.Ed, degree. This Court after considering the provisions of the National Council for Teachers Education Act, 1993 came to the conclusion that degree of Shiksha Visharad from Hindi Sahitya Sammelan being not recognised by National Council for Teacher Education, cannot be held to be equivalent to B.Ed.*

*9. The petitioner has not brought any material on record to establish that degree of Madhyama (Visharad) of Hindi Sahitya Sammelan has been treated to be equivalent to Intermediate by the State of U.P. It is not disputed that for sending a candidate for B.T.C. Correspondence Course training minimum eligibility is Intermediate. Learned Counsel for the petitioner at the time of hearing produced a booklet issued by Hindi Sahitya Sammelan, Allahabad containing*

*various letters issued by the State of UP., Government of India and several institutions regarding degrees issued by Hindi Sahitya Sammelan. Reliance has been placed by Counsel for the petitioner on a press note dated 18th February, 1970 issued by the Government of India along with which a list of organisations conducting different examinations have been issued.*

*10. A perusal of the above press note relied by Counsel for the petitioner, itself indicates that examination from Hindi organisations is recognised for standard of Hindi prescribed in the equivalent examination. The last paragraph of the press note issued by the Government of India, as quoted above, clearly clarifies that the recognition of this examination is in regard to standard of Hindi prescribed in the equivalent Hindi examination and it is not to be treated as equivalent to full fledged certificate of degree of examination. A copy of the Government order issued by the State of UP. dated 5th December, 1989 has also been relied by Counsel for the petitioner, which was issued in reference to letter dated 12th August, 1988 of the Government of India regarding examinations conducted by Hindi organisations. The Government order dated 5th December, 1989 clearly clarifies that degree of Madhyama (Visharad) issued by Hindi Sahitya Sammelan is equivalent only for standard of Hindi up to that examination and not equivalent to degree or certificate. In*

*this context it is also relevant to refer to provisions of Regulations framed under the UP. Intermediate Education Act, 1921. For the Intermediate examination, which is conducted by Madhyamik Shiksha Parishad, UP. several degrees from different organisation and Universities throughout the country have been mentioned in Chapter-XIV of the regulations and none of the degrees or certificate issued by Hindi Sahitya Sammelan, Prayag has been treated to be equivalent to High School so as to make such candidates eligible to take admission in the Intermediate examination whereas the Purva Madhyamik Examination of Sampurnanand Viswavidyalaya, Varanasi and the examination of Visharad from Kashi Vidya Peeth, Varanasi have been mentioned as equivalent to High School. The B.T.C. Correspondence Course training is imparted to untrained teachers so as to make them eligible for entitlement of trained grades of teachers. The qualification of Intermediate required is for purposes of appointment and the petitioner was required to fulfil the Intermediate qualification for purposes of appointment or imparting B.T.C. Correspondence Course training for becoming entitled to trained grade of Assistant Teacher. Thus the qualification required for appointment of Assistant Teacher is full fledged certificate of Intermediate and the degree of Madhyama (Visharad) issued by Hindi Sahitya*

*Sammelan cannot be treated to be equivalent to Intermediate examination.*

*11. The petitioner, thus, has failed to substantiate that degree of Madhyama (Visharad) granted by Hindi Sahitya Sammelan to the petitioner in the year 1990 is equivalent to Intermediate Examination. One more fact which is relevant to be noticed, is that petitioner himself appeared in the Intermediate examination conducted by U.P. Madhyamik Shiksha Parishad and has passed the same in the year 1997. Had his degree of Madhyama (Visharad) from Hindi Sahitya Sammelan equivalent to Intermediate, there was no occasion for the petitioner to pass Intermediate examination of U.P. Madhyamik Shiksha Parishad in the year 1997.*

*In the aforesaid case learned Single Judge after going through all the relevant Government Orders clearly held that the Madhyama (Visharad) examination is equivalent only for standard of Hindi up to that examination and is not equivalent to any degree or certificate.*

**(4) In *Manish Kumar v. State of U.P. & Ors.*, Writ Petition No. 45866 of 2007 learned Single Judge of this Court by his judgment dated 29.9.2010 considered all the Government Orders and the judgments in this regard and reiterated that the Prathama certificate issued by the Hindi Sahitya Sammelan is not equivalent to High School certificate**

*issued by the Madhyamik Shiksha Parishad, Allahabad. He quoted the letter of the Secretary of the Madhyamik Shiksha Parishad reporting that the Prathama, Madhyama or any other examination conducted by Hindi Sahitya Sammelan was not equivalent to High School/ Intermediate examination at any time in the past or in the present. The Government Orders produced to support the equivalence were found to be false. In the past the examination conducted by the Hindi Sahitya Sammelan were taken to be equivalent to Class-VIII for appearing in the High School examination of the U.P. Secondary Education Board, but now since it is compulsory for all the students appearing in the High School examination either from any institution or on private basis, to pass Class IX examination, the equivalence of the examinations conducted by the Hindi Sahitya Sammelan are not recognised. Learned Single Judge observed that Chapter XIV of the Regulation framed under the U.P. Intermediate Education Act, 1921 mentions as many as 71 certificates recognised by the U.P. Madhyamik Shiksha Parishad as equivalent to the High School examination for the purposes of appearing in the Intermediate Examination. There is no mention of the Prathama certificate issued by the Hindi Sahitya Sammelan in this list. Para 981 of Chapter 136 of Manual of Government Orders (Revised Edition 1981) also does not mention the equivalence given to Prathma or Madhyama examination to the High School and Intermediate examination conducted by the Secondary Education Board U.P. Learned Single Judge distinguished the judgment in Som Pal Singh v. Regional Joint Director of Education (referred as*



above) on the ground that it was based upon concession given by learned Standing Counsel, did not dispute the factum of Government Order dated 22.8.1998. The Government Order was thereafter superseded by another Government Order dated 28.10.1998. The factum of supercession has been mentioned in *Sarojani Pandey (Supra)*; *Shailendra Kumar Singh v. State of U.P. & Ors.* (2004) 2 UPLBEC 1716. Learned Single Judge also noticed that in *State of Rajasthan & Ors. v. Lata Arun* AIR 2002 SC 2642 it was noticed by the Supreme Court that the educational certificates of Madhyama issued by Hindi Sahitya Sammelan has been deleted from the recognised qualification vide notification dated 28.6.1985.

.....

15. There is another aspect to the matter namely that if the qualification conducted by private societies, in respect of language are treated as equivalent to the statutory boards, the candidates passing the examination from the statutory board will be seriously discriminated in appointments in Government Service, which is regulated by the statutory rules. The Court cannot permit the equivalence to be considered so casually. In *Rajasthan Pradesh V.S. Sardarshahar & Anr. (Supra)* the Supreme Court considered the legal status of Hindi Sahitya Sammelan and found that it is neither university/ deemed university nor an educational board. It is society registered under the Societies Registration Act and is not an educational institution imparting education in any subject. There is no school/ college imparting education in any subject affiliated to it. It also does not have any

*recognition from any statutory authority, even in respect of medical qualifications after 1967.*

*16. In the aforesaid circumstances, we fully agree with the reasoning given by the learned Single Judge in the judgment cited as above and reiterate that the Prathama and Madhyama (Vishrad) examination conducted by the Hindi Sahitya Sammelan are not equivalent to the High School and Intermediate Examination conducted by the Board of High School and Intermediate Education U.P. The petitioner's qualification of Madhyama (Vishrad) is thus not equivalent to Intermediate Examination, and thus the petitioner was not qualified and eligible to be appointed as a clerk.*

**22. Hon'ble High Court of Uttarakhand in Special Appeal No. 247 of 2008, Director, Krishi Utpadan Mandi Samiti, Uttarakhand Vs. Lal Chand Decided by Hon'ble J.S. Khehar, C.J.(As His Lordship then was) and Hon'ble Sudhanshu Dhulia, J, on 9.3.2010 (2011(2)UC1144) has held as under:**

*“Through the instant Special Appeal, the Director, Krishi Utpadan Mandi Samiti, Uttarakhand, Dehradun has impugned the order passed by the learned Single Judge dated 25.7.2008, disposing of the Writ Petition (SS) No. 1959 of 2003.*

*It is the vehement contention of the learned counsel for the appellant that “Prathama” and “Madhyama” examinations from Hindi Sahitya Sammelan, Allahabad are not equivalent to the High School / Intermediate of U.P. Education Board. It is further asserted that the certificates awarded by Hindi Sahitya Sammelan, Allahabad have not been recognized by the State of Uttar Pradesh (and by the successor State of Uttarakhand,) and as such, respondent*

*no. 1 - Lal Chand cannot be treated as eligible for promotion to the post of Clerk/Stenographer. It is submitted that the mistake earlier committed by the appellant in allowing promotion to Ranjit Singh cannot be a basis for claiming promotion. In this behalf, it is submitted that a plea of discrimination can emerge from an order rightfully passed, and not, from an order wrongfully/mistakenly passed. Since respondent no. 3 Ranjit Singh was not promoted rightfully, on account of his ineligibility, the same cannot be a basis for claiming promotion by respondent no. 1 Lal Chand herein. We have considered the solitary contention of the learned counsel for the appellant. We are satisfied that the instant Special Appeal deserves to be allowed for the very reasons depicted by the learned counsel for the appellant in his sole submission, namely, that the claim of respondent no. 1 herein Lal Chand could not have been considered on the basis of the order of promotion Ranjit Singh dated 29.4.1991, as Ranjit Singh was not validly promoted to the post of Clerk/Stenographer, as he did not fulfil the prescribed qualifications of the High School/Intermediate of U.P. Education Board. The qualification possessed by Ranjit Singh namely "Prathama" and "Madhyama" examinations from Hindi Sahitya Sammelan, Allahabad having not been recognized by the State of Uttar Pradesh or successor State of Uttarakhand, the same could not have been taken into consideration to bestow eligibility on Ranjit Singh."*

23. The petitioner has also contended in the claim petition that the impugned order is in violation of Section 74 of the U.P. Re-organization Act, 2000. He has pleaded that the State of Uttarakhand has chosen to change the minimum qualification for a post to the disadvantage of an employee without any prior approval of the Central Government. We do not agree with this. We find that in the

light of legal position as stated in paragraphs 20 to 22 above, no change in the eligibility condition has been made by the State of Uttarakhand. The 'Prathma' and 'Madhyama' qualifications are recognized neither by the State of Uttar Pradesh nor by the State of Uttarakhand.

24. The petitioner has also contended in the claim petition that the petitioner was not given any opportunity of hearing before cancellation of his promotion.

25. The Hon'ble High Court at Allahabad in **Manish Kumar Vs. State of U.P. [2010(9) ADJ 762]- Writ petition No. 45866 of 2007- decided on 29<sup>th</sup> September, 2010** has dealt with the issue of providing opportunity of hearing in a similar matter. In this case also, the promotion was cancelled on the ground that the 'Prathma' certificate issued by Hindi Sahitya Sammelan, Allahabad is not equivalent to 'High School'. The Hon'ble High Court at Allahabad held that the 'Prathma' is not equivalent to 'High School'. Apart from this, the Hon'ble High Court also held that by not providing opportunity of hearing to the employee, no violation of the principle of natural justice has been made. The Hon'ble High Court in this regard held as under:-

*“21. In so far as the petitioner's argument with respect to the breach of principle of natural justice while passing the impugned order is concerned, it is well settled the principle of natural justice is not a ritual which should be offered in each and every case as under a given circumstance even after giving an opportunity of hearing, the same result is likely to come and the order has been passed without opportunity of hearing such order should not interfered with merely for the reason that the opportunity of hearing was not afforded. The Apex Court in the case of Malloch Vs. Aberdeen Corporation, (1971) 2 ALL ER 1278, has held*

*that the breach of natural justice do also occur where all facts are not admitted or are not all beyond dispute but relief can be refused when the case of the applicant is not one of “real substance” or that there is no substantial possibility of his success or that the result will not be different even if natural justice is followed. The same view has been reiterated in the case of Glynn Vs. Keele University. Cinnamond Vs. British Airport Authority, not only in England but here also the Supreme Court in the case of S.L. Kapoor Vs. Jagmohan and others, (1980) 4SCC 379 has held as under:-*

*“In our view the principles of natural justice know of no exclusionary rule dependent on whether it would have made any difference if natural justice had been observed. The non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary. It ill comes from a person who has denied justice that the person who has been denied justice is not prejudiced. As we said earlier where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is permissible, the Court may not issue its writ to compel the observance of natural justice, not because it is not necessary to observe natural justice but because Courts do not issue futile writs. We do not agree with the contrary view taken by the Delhi High Court in the judgment under appeal.”*

*22. The same view has been reiterated in M.C.Mehta Vs. Union of India and others (1999)6SCC 237 and Aligarh Muslim University and others Vs. Mansoor Ali Khan, 92007) 7 SCC 529 and many other decisions of Apex Court as well as of this Court.*

*23. Here in the present case as has been held that Prathma certificate issued by Hindi Sahitya Sammelan is not equivalent to High School certificate issued by Madhyamik Shiksha Parishad, Allahabad, even if an opportunity was offered to the petitioner, he would not have been able to improve his case and the argument of learned counsel for*

*the petitioner, to the effect had the opportunity was offered to him, the authorities would have taken a different view after considering the petitioner's reply, does not hold any water."*

26. Examining the case in hand on the basis of the legal position stated in paragraphs 20 to 22 above, we reach the conclusion that the 'Prathma' and 'Madhyama' qualifications of Hindi Sahitya Sammelan, Allahabad have not been recognized equivalent to 'High School' and 'Intermediate' examinations by the State of Uttarakhand or the State of Uttar Pradesh and, therefore, the petitioner does not possess the essential qualification of 'High School' for promotion from the post of Orderly to the post of Forest Guard. Hence, he was not eligible for promotion.

27. We also reach the conclusion on the basis of legal position stated in paragraph 25 above that the principle of natural justice has not been violated.

28. The petitioner has not been able to establish any right for himself and, therefore, he is not entitled for any relief.

29. In view of above, we find the claim petition devoid of any merit and the same is liable to be dismissed.

### **ORDER**

The petition is hereby dismissed. No order as to costs.

V.K.MAHESHWARI  
VICE CHAIRMAN (J)

D.K.KOTIA  
VICE CHAIRMAN (A)

DATE: AUGUST 26, 2015  
DEHRADUN