

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.1589 of 2015**

**IN**

**Civil Writ Jurisdiction Case No. 17321 of 2012**

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Juli Kumari @ Juli Devi, aged about 24 years, W/o - Kamlesh Paswan,  
resident of village – Dadhapi, Post – Bandeya, P.S. – Goh, District –  
Aurangabad.

.... .... Appellant

Versus

1. The State of Bihar through the Principal Secretary, Human Resource Development Department, Government of Bihar, Patna.
2. The Member of District Teacher Appointment Appellate Authority, Aurangabad.
3. The District Magistrate, Aurangabad.
4. The District Educational Officer, Aurangabad.
5. The District Programme Officer (Establishment), Aurangabad.
6. The Block Development Officer, Goh, Aurangabad.
7. The Block Education Officer, Goh, Aurangabad.
8. The Pramukh, Goh Prakhanda, Aurangabad.
9. Sarfraz Alam, son of Md. Nizamuddin, R/o – Village – Johana, Post – Daurma, District – Gaya (Bihar).
10. Md. Irshad Idrisi, S/o – Aslam Khalifa, resident of village + Post – Amjhar Shrif, P.S. – Haspura, District – Aurangabad (Bihar).
11. Mozammel Hassan Mahtab, S/o – Faruk Ansari, resident of village + Post – Akona, P.S. – Daudnagar, District – Aurangabad (Bihar).
12. Nurshrat Khatoon, W/o – Md. Salimuddin, resident of village + Post + P.S. – Aanti, District – Gaya (Bihar).
13. Afrina Khatoon, D/o – Ahiruddin Ansari, resident of village + Post – Amjhar, Shrif, Post + P.S. – Haspura, District – Aurangabad (Bihar).
14. Shakil Ahmad, S/o – Alauddin Ansari, resident of village + Post – Akona, P.S. – Daudnagar, District – Aurangabad (Bihar).

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15.Md. Mazhar Imam, S/o – Reyazuddin Ansari, resident of village +  
Post - - Amjhar Shariff, District – Aurangabad (Bihar).

16.Pravez Aalam, S/o – Jainuddin Ansari, resident of village Chanhuta,  
Post – Khutan, P.S. – Haspura, District – Aurangabad (Bihar).

17.Iabool Ansari, S/o – Salim Ansari, resident of village + Post – Amjhar  
Shariff, P.S. – Haspura, District – Aurangabad (Bihar).

.... .... Respondents

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**Appearance :**

For the Appellant : Mr. Rajendra Prasad Singh, Sr. Advocate  
Mr. Rajeev Kumar Singh, Advocate  
Mr. Mukesh Kumar Singh, Advocate  
For the Respondents : Mr. Nagendra Sharma, AC to SC-29

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**CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH**

**And**

**HONOURABLE JUSTICE SMT. NILU AGRAWAL**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)**

**Date: 04-09-2015**

The delay of 10 days in filing of the present  
memo of appeal is condoned.

Heard learned counsel for the appellant and  
learned counsel for the respondent and with their consent  
this appeal is disposed of at this stage itself.

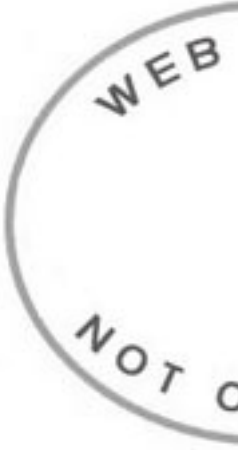
The present appeal arises from the judgment  
and order dated 23.09.2014 passed in C.W.J.C. No.  
17321/2012 (Juli Kumari Versus The State of Bihar and  
others). The writ petition, filed by the appellant, was  
dismissed by the learned Single Judge on a solitary issue.

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Apparently, the learned Single Judge considered that the writ petitioner/appellant was claiming appointment on the post of Urdu teacher in the Block on the basis of Maulvi certificate granted in the year 2009. The vacancies had been advertised and application made in the year 2008 and obviously the educational attainment of Maulvi being of the year 2009 could not inure to the benefit of the writ petitioner/appellant.

Sri Rajendra Prasad Singh, learned Senior Counsel appearing in support of this appeal, has taken us through the pleadings as made in the writ petitioner and the counter affidavit of the official respondents and private respondents. From reading the plea aforesaid, it is not in dispute that the writ petitioner/appellant applied in the year 2008 for the post of Block Teacher as a scheduled caste candidate for Urdu subject. This was on the basis of certificate of “Fokaniya” which is granted by Madarsa Board and duly recognized as matriculation. This fact was not noticed by the learned Single Judge.

Learned counsel for the State points out with reference to the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006



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(hereinafter referred to as the “Rules”), in particular, Rule 8 thereof, as after the amendment on 25.08.2008, which says that for Block Teacher, the person must have Intermediate qualification. He further refers to Rule 8(a)(3) and proviso thereto, which makes an exception in case of persons having matriculation, but they must have two years teacher’s training certificate. He submits that even if we assume that the writ petitioner/appellant was only matriculate she did not have the requisite two years teacher’s training certificate, and as such, she could not be considered.

He further submits that Maulvi certificate, which is equivalent to Intermediate, was later acquired and would be of no relevance. In response thereto, Sri Rajendra Prasad Singh, refers Rule 4(3) of the Rules. This Rule provides that in respect of any reserved post of teacher, if no qualified person is available, then a matriculate simplicitor could be recruited, subject to attaining Intermediate qualification within six years. This is an exception to the general rule. He submits that there being nine posts for Urdu teachers and one post reserved for scheduled caste Urdu teacher not being filled, appointment

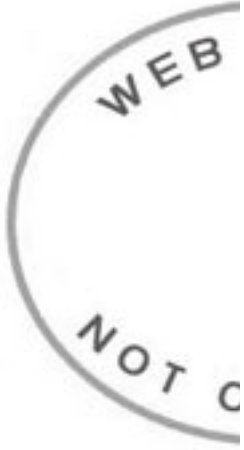
**5.**

having been made only for 8 posts, she is eligible for consideration.

Having heard the parties and heard the matter, in view of the facts stated above, the writ petitioner/appellant was having “Fokaniya” certificate granted by Madarsa Board equivalent to matriculation and the fact that she was a scheduled caste candidate at the time of application itself, she had to be considered for appointment if the post of Urdu teacher included a post reserved for scheduled castes candidate and that has remained vacant.

It is not in dispute that during pendency of the selection process, she had also obtained the Maulvi certificate which is equivalent to Intermediate. Thus, subject to reserved vacancies for Urdu teachers belonging to scheduled castes she fulfills all the requirements of Rule 4(3) of the Rules. She was, thus entitled to be considered. She was undisputedly called for counselling as well, but it appears because she insisted upon her qualification being Maulvi she was not considered fit having got the said certification after the date of application.

Having considered the matter, in our view, in



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view of Rule 4(3) of the Rules, writ petitioner/appellant was required to be considered for the post, which is, of course, subject to condition that at that time there was one Urdu post available which was reserved for scheduled caste candidate.

We, accordingly, allow this appeal, set aside the judgment of the learned Single Judge and direct the District Programme Officer (Establishment), Aurangabad, Bihar, to ensure that for appointment of Block Teacher in respect of Urdu, if it is found that there was a vacancy and that too reserved for scheduled caste, then writ petitioner/appellant would be considered for the said appointment, and this process must be completed within one month from the date of production of a copy of this order. It shall be his responsibility to see timely compliance of the order of this Court.

This appeal is, accordingly, allowed.

**(Navaniti Prasad Singh, J.)**

**(Nilu Agrawal, J.)**

Rajeev/A.F.R.

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