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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2815 of 2015**

1. Panchan Tarafdar S/o Shri Mathur Tarafdar, aged about 52 years, Upper Division Teacher, Govt. Middle School, Panawar Post Panawar, Thana Bande, District Kanker Chhattisgarh
2. Ramesh Chandra Shil S/o Late G.C.Shil, aged about 48 years, Govt. Middle School PV-116, Post Pakhanjore, Thana Pakhanjore, District Kanker Chhattisgarh
3. Satyaban Baidya S/o Shri Dashrath Baidya, aged about 49 years, Upper Division Teacher, Govt. Middle School, PV 118, Post Tahsil and Thana Pakhanjore, District Kanker Chhattisgarh.

---- **Petitioners****Versus**

1. State of Chhattisgarh, Through the Secretary, Scheduled Cast and Scheduled Tribe Development Department, Mahanadi Bhawan, New Raipur, Chhattisgarh.
2. The Commissioner, Tribal Welfare Department, Pt. Ravishanker University Premises, Raipur, Chhattisgarh.
3. Assistant Commissioner, Tribal Welfare Department, Kanker, District Kanker, Chhattisgarh.

---- **Respondents**

For Petitioners	:	None.
For Respondents/State	:	Shri B.Gopa Kumar, Deputy Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice**Hon'ble Shri P. Sam Koshy, J.****Order on Board****Per Navin Sinha, Chief Justice****05/08/2015**

1. The controversy in this writ application stands covered by the order in Writ Petition (S) No. 1407 of 2012 and analogous cases, decided on 30.4.2014. The only difference is that in the earlier writ petitions, the issue related to Lecturers and Headmasters while in the present, it relates to Upper Division Teacher and Head Masters (Primary School-Graduate).
2. The interpretation of Rule 15 of the Chhattisgarh Tribal and Scheduled Caste Development Department Educational Cadre (Gazetted) Service Recruitment Rules, 2011 having been elaborately considered in the earlier writ petitions, the reasoning with regard to the invalidity thereafter to the extent

discussed as detailed hereinafter applies to the present case also:

"d. The Explanation to Rule 15(1) of the Chhattisgarh Tribal and Scheduled Caste Development Department Educational Cadre (Gazetted) Service Recruitment Rules 2011 is discriminatory and *ultra vires* the Constitution;

e. The State Government may frame fresh explanation/rule. However, till it is so framed. The qualifying service of the Lecturers who have been promoted from the post of Head Master will be taken from the date of their appointment as Head Master Middle School (Post Graduate). The State Government while calculating length of qualifying service such Lecturers shall include their experience as Head Master, Middle School and proceed accordingly. "

3. The writ petition is disposed in the aforesaid terms.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE