

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3068 of 2015**

Gopal Prasad Verma S/o Late Shri Lakheram Verma, Aged about 46 years, Post Shikshak Panchayat, R/o village Girra, Post Sasaha, Tahsil Palari, District Balodabazar, Bhatapara, Chhattisgarh.

---- **Petitioner****Versus**

1. State of Chhattisgarh, Through the Secretary, Department of Panchayat and Rural Development, Ministry, Mahanadi Bhavan, New Raipur, District Raipur, Chhattisgarh.
2. The Director, Panchayat, Directorate of Panchayat, 36 C III Block II, Second Floor, Indrawati Bhavan, New Raipur, District Raipur, Chhattisgarh.

---- **Respondents**

For Petitioner	:	Shri Alok Dewangan, Advocate.
For Respondents/State	:	Shri Prafull N Bharat, Additional Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Order on Board**Per Navin Sinha, Chief Justice****21/08/2015**

1. The Petitioner is aggrieved by the amendment dated 2.3.2015 in the Chhattisgarh Teacher (Panchayat) Cadre (Recruitment and Conditions of Service) Rules, 2012 (hereinafter called 'the Rules') by insertion of a note after Schedule IV to the effect that Teacher (Panchayat) holding post graduate degree with D.Ed alongwith seven years experience of teaching would be eligible to be considered for the post of Lecturer (Panchayat).
2. Learned Counsel for the Petitioner submits that Schedule IV provides that the minimum eligibility for promotion was post graduate in the concerned subject with B.Ed degree. Without first amending the Rules, merely by

insertion of a note at the end of the Rules, the Rules cannot be deemed to have been amended incorporating D.Ed, a qualification lower than the B.Ed as a valid eligibility. If persons with D.Ed qualifications are also considered, they will acquire seniority over the candidates with B.Ed qualification and there shall be more competing candidates. The Petitioner has represented but without considering the representation, the authorities are proceeding to draw up a list of eligible candidates for promotion which will prejudice and affect chances for promotion of the Petitioner.

3. Learned Additional Advocate General submits that laying down of qualification is for the employer to decide. The submission that the Rules are required to be amended to incorporate D.Ed qualification is misconceived. The qualification remains B.Ed. By virtue of the relaxation clause, D.Ed may be considered under specified circumstances as explained in the letter dated 13.9.2013.

4. We have considered the submissions on behalf of the parties.

5. Laying down of qualifications for appointment is for the employer to decide keeping in mind its own needs and requirements of the kind and nature of the teachers it may desire to appoint or promote. It is not for the Court to decide the conditions of eligibility or reassess that may be laid down by the employer. Laying down of eligibility conditions and the power of relaxation are two independent issues. In the present case, the minimum qualification of B.Ed has not been interfered with. The relaxation clause is a separate power retained by the authorities to be invoked in specified circumstances. If the substantive eligibility were to be amended itself, there would have been no need for the relaxation clause. The eligibility prescribed in the Rules is the normal eligibility and that incorporated in the relaxation clause, the exception. The exception has not been made the rule.

6. There is no challenge to the power of the Respondents to frame the Rules and make amendments to the same. We are not inclined to consider any request for a direction to stay further promotions as we are satisfied that the only appropriate order that can be passed by us at this stage is to direct the disposal of the Petitioner's representation, if he is aggrieved by incorporation of relaxation clause which may widen the area of competition. If we have declined to entertain the writ petition on merits, question of passing any interim order which may continue to operate after we have refused to entertain the writ petition shall be contrary to law. It is expected that the authorities shall consider the representation of the Petitioner and dispose it by a reasoned and speaking order expeditiously.

7. The writ petition stands disposed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE