

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.10757 of 2015**

=====

Manoj Kumar Saha, son of Murlidhar Saha, resident of village- Pipra Ward No.10  
(Kamta Tola), Post Office- Pipra, Police Station- Jogabani, District- Araria.

.... .... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Primary Education, Patna, Bihar.
2. The District Programme Officer (Establishment) Araria.
3. The Block Education Officer, Kursakala, District- Araria.

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Nagendra Dubey

For the Respondent/s : Mr. Kumari Amrita, GP-10

=====

**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH**

**ORAL JUDGMENT**

**Date: 09-02-2016**

1. Petitioner seeks quashing of letter dated 01.07.2015 issued by respondent no. 2, whereby he has directed the Block Education Officer to seek resignation of the petitioner as he had obtained his matriculation certificate from Nepal. He also seeks direction to the respondents to make payment of his remuneration and salary as he is continuing as Assistant Teacher in Primary School, Pandey Tola, Mehndipur, District Araria.
2. The petitioner passed his matriculation examination from Adarsh Madhyamik Vidyalay, Birat nagar, Nepal in the year 1998. Thereafter, he took admission in intermediate course in Forbesganj College, Forbesganj and passed intermediate examination the year 2000. The certificate of intermediate course



issued by Bihar Intermediate Education Council, Bihar, Patna is annexed as Annexure-2 to this writ petition. After his intermediate examination, the petitioner took admission in degree course at Forbisganj College and passed bachelor course in the year 2005 for which a certificate has been issued by Bhupendra Narayan Mandal University. Thereafter, the petitioner has also appeared in Bihar Elementary Teacher Eligibility Test (BETET), 2011 successfully and granted certificate on 14.05.2012. The petitioner applied for the post of primary teacher for Class I to V pursuant to Advertisement issued on 12.09.2012. Subsequently, he was selected as Panchayat Teacher by the Panchayat Teacher Employment Committee on the basis of his educational qualification and was given appointment on 21.07.2014.

3. The petitioner is aggrieved by letter, dated 01.07.2015 of the District Programme Officer (Annexure-9), observing that the appointments of teachers ought not to have been made on the basis of educational certificates obtained from Nepal in view of Court's order as well as the departmental instructions issued from time to time. The Block Education Officer was directed to take appropriate steps to cancel such appointments. As the petitioner had obtained his matriculation certificate from Nepal, his payment was stopped pursuant to letter, dated

01.07.2015. The petitioner states that the government instruction contained in letter dated 01.07.2015 would not be applicable in his case as he passed his intermediate examination from Bihar Intermediate Education Council, Bihar, Patna, which was the minimum qualification for appointment of primary teacher.

4. On the other hand, learned counsel for the State submits that the selection of the petitioner and others were made on the basis of cumulative marks of matriculation, intermediate and training examinations. He submits that in any view of the matter, the petitioner could not be given any credit for matriculation marks obtained from Nepal Board/ Institute.

5. I heard learned counsel for the parties.

6. As per Rule 5 of the Bihar Panchayat Elementary Teacher (Employment and Service Conditions) Rules, 2012 (in short “the 2012 Rules”), minimum educational qualification for appointment of Panchayat Teacher is intermediate with cut off marks for different categories. A merit panel is prepared on the basis of marks secured in matriculation, intermediate and training examination. Certain credit/ points are earmarked for the different exams/ qualifications.

7. The issue for consideration is whether a person be debarred from being appointed as Panchayat Teacher, as he/she has

matriculation certificate from Nepal Board, irrespective of the fact that he has obtained his intermediate or subsequent qualifications from recognized institutions under the Rules.

8. Rule 5 of 2012 Rules prescribes intermediate as minimum qualification for Panchayat Teacher. Such certificate is to be obtained from a recognized College, Board, Council or University. It is not in dispute that the petitioner has his intermediate from a recognized Institution of State of Bihar. It is equally true that he has passed matriculation/ equivalent exam from Nepal Board, which is not recognized by the State of Bihar. The selection of Panchayat Teacher is made on the basis of cumulative marks secured in matriculation, intermediate, training and other examinations.

9. In my view, service of a Panchayat Teacher cannot be dispensed only on the ground that he has matriculation qualification from Nepal Board which is not recognized by our Country, if otherwise, he has minimum qualification of intermediate from a recognized Institution. However, he could not be given any credit for having secured matriculation qualification from a non-recognized institution while calculating credit points for selection. If after deducting the marks obtained in the matriculation examination, it is found that any other candidate in

his category has secured more marks then him, but could not be selected as matriculation marks of the petitioner was counted, his selection is liable to be terminated and cancelled.

10. The District Programme Officer, Araria, is directed to complete these exercise within a period of three months from the date of receipt of a copy of this order. It goes without saying that the petitioner would be paid his salary for the period he has performed his duty.

11. With aforesaid observations, the writ application is disposed of.

**(Samarendra Pratap Singh, J)**

kunal/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|