

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

**Letters Patent Appeal No.92 of 2015**

**IN**

**Civil Writ Jurisdiction Case No. 18645 of 2014**

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Rubi Kumari, W/o Dhirendra Prasad Choudhary, Resident of Village Loha pul Gangoli, Police Station K. Nagar, District- Purnea.

.... .... Appellant/s

Versus

1. The State of Bihar.
2. District Education Officer, Purnea.
3. District Programme officer (Establishment), Purnea.
4. The Block Development officer-cum-Secretary, Block Teachers Establishment Committee, K. Nagar, District- Purnea.
5. The Block Education Officer K. Nagar, District- Purnea.
6. The District Appellate Authority, Purnea.

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Tej Bahadur Singh, Senior Advocate  
Mr. Anil Kumar Anal, Advocate

For the Respondent/s : Mr. Awanish Nandan Sinha, G.P. 11

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**

ORAL JUDGMENT

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 18-08-2017**

Seeking exception to an order dated 27.11.2014 passed by the learned Writ Court in Civil Writ Jurisdiction Case No.18645 of 2014; this appeal has been filed under Clause 10 of the Letters Patent.

Learned Writ Court has dismissed the writ petition and has not adverted to consider the relevant facts which goes to show that the petitioner was working as a *Shiksha Mitra* and when the Circular dated 11.08.2004 was issued fixing the qualification as Intermediate pass to continue in service, the petitioner was in service and acquired



the Intermediate qualification on 31<sup>st</sup> of May, 2007 and continued to work on the said post till 2014 when her services were terminated. However, in the meanwhile, on 04.07.2008, the Circular was issued by the State Government wherein persons, who were already working and had not Intermediate qualification, were granted 33 months time to acquire the Intermediate qualification. Admittedly, even prior to that, i.e. on 31.05.2007, the petitioner had acquired the qualification of passing the Intermediate Examination and, therefore, there was no occasion or reason for terminating her service in the year 2014. When the petitioner challenged the termination order, all these factors were not taken into consideration by the learned Writ Court and by holding that the petitioner did not have the Intermediate qualification, the writ petition was dismissed.

In our considered view, in doing so, the learned Writ Court has committed a grave error. In fact, the petitioner much before her termination and even before the period of 33 months fixed on 04.07.2008, had acquired the Intermediate qualification on 31.05.2007 and there is no reason as to why the writ petition should not be allowed as the petitioner had already acquired the qualification as required under the Rules.

Keeping in view the aforesaid, we allow this appeal, quash the impugned order dated 28.01.2014, allow the writ petition



and direct for reinstatement of the petitioner with all consequential benefits.

**(Rajendra Menon, CJ)**

**(Anil Kumar Upadhyay, J)**

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