

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1011 of 2015

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Md. Shahnawaz Hussain, Son of Md. Khodadin Ansari, resident of village - Ibrahimpur, P.S. - Karakat (Kacchawan), District - Rohtas; presently residing at Dehri-on-Sone, P.O. + P.S. - Dehri-on-Sone, District - Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary of Education Department, Government of Bihar, Patna.
2. The Director, Secondary Education Government of Bihar, Patna.
3. The Zila Parishad Rohtas, through its Chief Executive Officer, the Deputy Development Officer, Sasaram.
4. The Deputy Development Commissioner, Sasaram-cum-Chief Executive Officer of the Zila Parishad, Rohtas, Sasaram.
5. The District Magistrate, Rohtas (Sasaram).
6. The District Education Officer, Rohtas (Sasaram).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 31-07-2018

Heard learned counsel for the petitioner; State and Zila Parishad Rohtas.

2. The petitioner has moved the Court for the following reliefs:

“i) For quashing of the communication made by the Deputy Development Commissioner-cum-Chief Executive Officer of the Zila Parishad, Rohtas vide its letter No. 1303 dated 25.08.2014 (Annexure-8) whereby and whereunder the claim for considering the claim of petitioner for appointment of petitioner against the vacant seat of the Urdu teacher under the High Schools falling under the Zila Parishad, Rohtas has been rejected.

ii) For further the Respondents be directed to reconsider the claim of petitioner for appointment



against the existing vacancies of Urdu Teacher in the High Schools under Zila Parishad, Rohtas.

iii) For a direction to the State authorities to create the posts of Arbi subject in the High Schools of the State.

iv) During pendency of the writ application Respondents be directed to keep one post vacant for Urdu Subject.

v) For any other directions/orders which may deem fit and proper in the facts and circumstances of the case.”

3. The petitioner having qualification of Alim in Urdu from the Bihar State Madarsa Education Board, equivalent to B.A. Honours in Urdu, appeared for the Secondary/Senior Secondary Teachers Eligibility Test (BSITET), 2011 and qualified the same. Based on the same, pursuant to an advertisement for appointment of Secondary Teachers by the Zila Parishad, Rohtas, the petitioner applied for the post but was not considered on the ground that he had cleared the BSITET examination in Arabic and there was no post of Secondary Teacher in the subject of Arabic.

4. Learned counsel for the petitioner contended that he possesses the eligibility criteria for appointment on the post of Secondary Teacher in Urdu, and him qualifying the BSITET examination in Arabic, is immaterial as the same is only the qualifying examination. It was submitted that neither the BSITET bulletin nor the requirement of recruitment under the *Bihar Zila Parishad Madhyamik Evam Ucchar Madhyamik Shikshak Niyozan*



Niyamawaly, 2006 (hereinafter referred to as the 'Rules'), required that the qualification of BSITET has to be in a particular subject for being appointed as Secondary Teacher and the only requirement is that such qualification must be there but the subject/post on which appointment is to be made is governed by the qualification a person possesses for such post. It was submitted that in the present case, eighteen posts of Secondary Teachers in the subject of Urdu are vacant and the petitioner possesses the qualification for being appointed on such post.

5. Learned counsel for the State and Zila Parishad, Rohtas submitted that as there was no post of Secondary Teacher in Arabic, the petitioner could not be appointed. However, they have not been able to counter the submission of the petitioner that he possesses the requisite qualification under the Rules for being appointed on the post of Urdu Teacher and further, that there is no requirement of law that a person has to be BSITET qualified in that particular subject. On a specific query of the Court to learned counsel for the State and Zila Parishad, Rohtas, to point out any provisions, either under the recruitment Rules, or in the bulletin relating to BSITET examination held by the Bihar Examination Board indicating that a person has to possess BSITET in a particular subject for being appointed on that particular post, they were not able to do



so. Further, on a direct query of the Court to learned counsel for the Zila Parishad, Rohtas, with regard to there being still eighteen posts of Urdu Teachers being vacant, the same is not denied.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the impugned order rejecting the claim of the petitioner for being appointed on the vacant post of Urdu Teacher in the High Schools falling under the Zila Parishad, Rohtas cannot be sustained. The contention of learned counsel for the petitioner is correct that under the appointment Rules, it is the basic qualification a person has to possess for being appointed on a particular post. In the present case, there is no controversy with regard to the fact that the petitioner possesses the basic qualification for being considered for appointment on the post of Secondary Teacher in Urdu. As far as BSITET examination is concerned, rightly learned counsel for the petitioner had submitted that it is a mere qualifying examination which gives a person the right to apply for being considered for the post. Once that initial bar is passed, the criteria would relate to the qualification the person possesses with regard to the post for which he wants consideration. In the present case, it is not denied that the petitioner possesses the required qualification for being appointed as an Urdu Teacher.



7. For the reasons aforesaid, the writ petition stands allowed. The respondents no. 3 and 4 are directed to consider the case of the petitioner for appointment on the post of Urdu Teacher in the High Schools falling under the Zila Parishad, Rohtas without insisting for him to have BSITET qualification in Urdu and on the basis of his existing qualification of BSITET in Arabic, subject to him fulfilling the other criteria in law. The exercise be completed and taken to its logical conclusion within one month from the date of production of a copy of this order before the respondent no. 4.

(Ahsanuddin Amanullah, J.)

P. Kumar

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