

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14117 of 2011

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Saiyad Shani Hasan S/O Saiyad Mehdi Hasan R/O Islam Nagara, P.S.- Town
Nawada, Distt.- Nawada Petitioner/s

Versus

1. The State Of Bihar
 2. The District Magistrate, Nawada
 3. The Member, District Teachers Appointment Appellate Tribunal, Nawada
 4. The District Education Officer, Nawada
 5. The Block Development Officer, Block - Nawada, Distt.- Nawada
 6. The Block Education Extension Officer, Block- Nawada, Distt.- Nawada
 7. The Panchayat Sachiv, Gram Panchayat Raj-Oraina, Block- Nawada, Distt.- Nawada
 8. Md. Nyaz Alam S/O Malik Md. Muslim R/O Mirja Toli Par Nawada, P.S.- Town Nawada, Distt.- Nawada Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur, Advocate
Mr. Sheo Kumar Prasad, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date : 21-08-2018

The petitioner is aggrieved by the decision of the District Teachers Employment Appellate Authority in Case No. 210 of 2011 dated 11.8.2011.

2. Learned counsel for the petitioner submits that the issue raised in the present writ petition is no more res integra. This Court had occasion to examine the issue in CWJC No. 3366 of 2016 and vide oral judgment dated 27.03.2018, it has been decided that once the examination is conducted for 50 marks only, fixing the criteria of 100 marks for the subject Bangla is most unreasonable. Paras 7 to 9 of the said judgment reads as under:-



“7. Considering the submissions advanced by the parties and looking at the condition incorporated in Annexure-2, the Court is of the considered view that when the intermediate examination is held for only 50 marks prescribing requirement of passing intermediate with Bangla in 100 marks amounts to a condition impossible to fulfill.

8. Mr. Dubey has pointed out that in the year 2013 when the respondents have directed the examinations of TET at that point of time they have prescribed eligibility of intermediate with 50 marks in the subject of Bangla.

9. In view of the above, the Court is constrained to read down the eligibility condition contained in Annexure-2 so far as Bangla teachers are concerned to mean 50 marks at the intermediate level by following the principles of reading down in view of law laid down by the Apex Court in the case of Delhi Transport Corporation Vs. D.T.C. Mazdoor Congress, reported in AIR 1991 SC 101. The respondents are hereby directed to consider the case of the candidates for Bangla teachers, with the eligibility of 50 marks at the intermediate level until curriculum is modified by the Intermediate Council or Bihar School Examination Board and examinations are held for 100 marks at intermediate level.”

3. This Court has considered the condition for appointment as Bangla Teacher and while allowing the writ



petition, directed the respondents to consider the case of the candidates with eligibility of 50 marks at intermediate level unless curriculum is modified by the Intermediate Council or Bihar School Examination Board and examinations are held for 100 marks at intermediate level. The principle discussed in CWJC No. 3366 of 2016 is applicable in the present case also as in Urdu also examinations are held for only 50 marks.

4. Accordingly, the order passed by the Tribunal cannot sustain as examination itself is held for 50 marks and fixing eligibility criteria contrary to the curriculum and on such terms and conditions the Tribunal has passed the order which cannot sustain and accordingly, the order of the Tribunal is quashed.

5. The respondents are directed to reinstate the petitioner with all consequential benefits within a maximum period of four months from the date of receipt/production of a copy of this order.

6. With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.08.2018
Transmission Date	

