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**(2014) 12 JH CK 0016**  
**In the Jharkhand High Court**  
**Case No : W.P.(S) No. 4792 of 2014**

Jyoti Surin

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

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**Date of Decision :** 15-12-2014

**Acts Referred:**

Constitution of India, 1950 — Article 30(1)

**Citation :** (2014) 12 JH CK 0016

**Hon'ble Judges :** Aparesh Kumar Singh, J

**Bench :** Single Bench

**Advocate :** Rahul Kumar, Advocate for the Appellant

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## Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties.

2. The proposal for approval of the petitioner's appointment and her preposition statement has been rejected by the Director, Primary Education, Government of Jharkhand vide memo No. 208 dated 10.4.2014 (Annexure-10) on the ground that she does not fulfill the eligibility criteria as prescribed in the notification of the N.C.T.E. dated 23.8.2010. The District Superintendent of Education, Simdega has also passed a similar order of rejection vide memo No. 815 dated 5.7.2014 (Annexure-13) on the aforesaid claim of the petitioner taking the ground that passing of the Teachers Eligibility Test is mandatory which has not been complied by the petitioner in terms of the notification dated 23.8.2010 (Annexure-2).

3. Petitioner is said to have been appointed as Assistant Teacher on 23.5.2011 by the Managing Committee of the R.C. Primary School, Olhan, Bano in the district of Simdega against the sanctioned vacant post pursuant to the advertisement dated 30.4.2011 after interview. She claims to have joined the said school on 1.6.2011 as per Annexure-5 and has been discharging her duties. Earlier by the order dated 30.10.2011, District Superintendent of Education, Simdega had approved the appointment of the petitioner provisionally with certain terms and conditions that such approval would be subject to the decision of the Directorate

of Primary Education, Ranchi.

4. Learned counsel for the petitioner submits that passing of the Teachers Eligibility Test for appointment in an aided or unaided minority school is no longer mandatory in view of the Constitution Bench judgment rendered by the Hon"ble Supreme Court in the case of Pramati Educational and Cultural Trust (r) and Others Vs. Union of India (UOI) and Others, . The said judgment is dated 6.5.2014 (Annexure-11) and the impugned order has been passed by the Director, Primary Education just one month before that which requires reconsideration. It is submitted that the Director, Primary Education has himself issued directions to all the District Superintendent of Education on 22.5.2014 (Annexure-12) for sending the proposal of appointment and preposition statement of such Teachers of aided or unaided minority school within the State. It is therefore, submitted that the matter should be remanded to the respondents to take a fresh decision in the matter of approval of petitioner's appointment and also her preposition statements so that the current and arrears of salary due to her may be released from the date she has been working in the said school in question.

5. Learned counsel for the respondent-State submitted that in absence of any instruction no response on merit can be made at this stage. However, learned counsel for the respondents is not in a position to dispute that the Hon"ble Apex Court in the case of Pramati Educational and Cultural Trust (supra) has held that the Act of 2009 is not applicable to the aided or unaided minority school, who are covered under the provisions of Article 30(1) of the Constitution of India.

6. Having heard learned counsel for the parties and in the wake of the judgment rendered by the Hon"ble Apex Court in the case of Pramati Educational and Cultural Trust (supra), it appears that the matter requires reconsideration at the end of the respondents themselves. Therefore, at this stage without making any further comment on the issue, the respondent No. 2, Director, Primary Education, Government of Jharkhand, Ranchi is directed to reconsider the claim of the petitioner and take a decision in the matter in accordance with law after due verification of the relevant records of the appointment of the petitioner as also the judgment rendered by the Apex Court in the case of Pramati Educational and Cultural Trust (supra) within 12 weeks from the date of receipt of a copy of this order along with petitioner's representation duly supported with all necessary facts and documents. Dependant upon such decision, if petitioner's appointment is approved, consequential benefits of arrears of salary and current salary be released in her favour within a reasonable time, thereafter. It is made clear that the orders of rejection of petitioners' claim earlier shall not come in the way of the respondents to take a fresh decision in the matter.

7. This writ petition stands disposed of accordingly.