

(2015) 11 PAT CK 0050

In the Patna High Court

Case No : Letters Patent Appeal No. 1740 of 2015 in Civil Writ Jurisdiction Case No. 2519 of 2013

Rizwan Ahmad Azad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 10-11-2015

Acts Referred:

Constitution of India, 1950 — Article 226, 309

Citation : (2016) LabIC 227 : (2016) 1 PLJR 80

Hon'ble Judges : I.A. Ansari, Actg. C.J. and Chakradhari Sharan Singh, J.

Bench : Division Bench

Advocate : Fakhruddin Ali Ahmad, Advocate, for the Appellant; Meeraj Kumar, K.K. Upadhyay and C.B. Das, Advocates, for the Respondent

Final Decision : Allowed

Judgement

Chakradhari Sharan Singh, J.—Interpretation of Rule 3 of Bihar Vishesh Prarambhik Shikshak Niyukti Niyamavali, 2010 (hereinafter referred to as "the 2010 Rules") framed for "One Time Appointment", in terms of certain directions of the Supreme Court, in relation to qualification for appointment as Urdu teacher, is primordial issue involved in the present appeal under Clause 10 of the Letters Patent of this High Court.

2. In the light of the Supreme Court's direction, the 2010 Rules were framed in order to fill up 34,540 posts of Assistant Teachers by candidates trained in teaching,. We will be referring to the 2010 Rules in detail, but for the purpose of introducing the dispute in the present case, we consider it apt to point out, at the very outset, that apart from passing of requisite teachers training examination, intermediate qualification has been laid down as one of the minimum eligibility criteria for appointment. Sub-rule (iv) of Rule 3 of the 2010 Rules deals with the qualification of the candidates for appointment to the posts of Urdu Teacher as Moulvi (intermediate level) or equivalent examination pass candidates or intermediate examination passed with Urdu as one of the subjects of 200 marks

and also have passed the 2-years teachers training examination. Sub-rule (vi) of Rule 3 of the 2010 Rules grants temporary relaxation/exemption from having Intermediate qualification for such candidates who have passed 2-years teachers training course or C.P.D. prior to 1995, from a recognized teachers training college, subject to the condition that they will have to acquire the intermediate qualification within four years from the date of their appointment.

3. The question, which has arisen in the present appeal, is as to whether the relaxation/exemption, granted under sub-Rule (iv) of Rule 3 of the 2010 Rules, can be said to be available only to the general teachers, i.e., the teachers other than Urdu teachers, or such relaxation/concession, under the 2010 Rules, is available for appointment to the posts of Urdu teacher too.

4. Before we deal with the factual details, giving rise to the present appeal against the order, dated 5.8.2015, passed by a learned Single Judge of this Court, in CWJC No. 2519 of 2013, we must record the admitted facts, which, in brief, are as follows:

(i) The appellant, on the date of his appointment as a Urdu teacher, possessed the qualification of "having passed two years teachers training course" and "Matriculation, with Urdu as a subject", and has, within four years of his appointment as a Urdu teacher, acquired intermediate qualification.

(ii) By an order, dated 19.1.2013, issued under the signature of the District Programme Officer (Establishment), Nalanda, the appellant's appointment, as a Urdu teacher, came to be cancelled with effect from the date of his appointment (i.e. from 5.12.2012), on the ground that the appellant was not having the minimum qualification of Intermediate, as laid down under Rule 3(iv) of the 2010 Rules.

(iii) Aggrieved by the order, dated 19.1.2013, the appellant made an application, under Article 226 of the Constitution of India, giving rise to CWJC No. 2519 of 2013, which has been dismissed by the order under appeal, holding that Rule 3(vi) of the 2010 Rules will not be applicable for appointment to the posts of Urdu teacher, as it would defeat the very purpose of specialized qualification, required for the posts of Urdu teacher, as prescribed under Rule 3(iv) of the 2010 Rules. The learned single Judge, accordingly, dismissed the writ application with an observation that the appellant would not be subjected to any recovery of salary for the period during his appointment as an Urdu teacher.

5. From the pleadings on record and the order under appeal, it transpires that in order to comply with the directions of the Apex Court to fill up 34,540 posts of teachers by candidates trained in teaching, the Directorate, Primary Education, Government of Bihar, had framed the 2010 Rules. From the preface of the 2010 Rules and the provisions contained therein, it is manifest that the sole purpose of framing of the 2010 Rules, under the proviso of Article 309 of the Constitution of India, was to fill up the said 34,540 posts as a one-time measure. Rule 3 of the 2010 Rules lays down the eligibility criteria for appointment as teachers.

6. How rule 3 of the 2010 Rules shall be construed for adjudicating upon the dispute, in question, is the core issue. We, therefore, reproduce hereinbelow Rule 3 of the 2010 Rules.

7. If translated into English, the said Rule can be read thus:-

"3. Eligibility for appointment -

(i) Candidates should be a citizen of India and domicile of the State of Bihar.

(ii) Candidates should have passed Intermediate examination (except Sub Rule-v) from a school/college recognized by Centre or any State Government. Technical degree awarded by any institution or degree/qualification of particular language, whose parity not recognized for appointment on the post of teacher by the Personnel and Administrative Reforms Department or Human Resource Development Department, Government of Bihar, is not included under it.

(iii) The candidates should have passed two years Training examination or B.Ed. examination from any institution recognized by the Centre or any State Government prior to 1995. After 1995 the candidates should have passed two years Teachers Training Diploma or B.Ed. or B.L.D. examination from any institution recognized by N.C.T.I.

(iv) For posts of Urdu Teacher, candidate should have passed Maulvi (Intermediate level) from Bihar Madarsa Education Board or equivalent examination, or Urdu as subject of 200 marks in Intermediate examination, along with two years training examination.

(v) For posts of Physical Teacher, candidates should be Intermediate pass and having degree of C.P.Ed./D.P.Ed.

(vi) Such candidates who are domicile of Bihar State and have passed two years training course from any Training College of Bihar State (undivided) before 1995 or have passed C.P.Ed. but not Intermediate, may also apply for appointment. But it shall be mandatory for them to acquire Intermediate qualification within 4(four) years of their appointment."

8. Rule 6 of the 2010 Rules contemplates that out of 34,540 posts, as many as 12,862 posts are meant for Urdu subject and rest 21,678 posts are meant for general subjects. For the purpose of the present judgment, while referring to the two categories, we will be describing teachers of general subject as general teacher and teachers, in Urdu subject, as Urdu teachers.

9. For the benefit of quick reference and better appreciation, Rule 6 of the 2010 Rules is being extracted hereinbelow:-

10. If translated into English, the said Rule can be read thus:-

"6. Appointment on posts:-Action shall be taken for appointment on total 34,540 posts to be advertised. Out of it, 12,862 posts shall be of Urdu subject and remaining 21,678 posts shall be of general subjects. Physical Teachers shall be

appointed on 5% out of total general posts (excluding Urdu posts). In case of non-availability of candidates of reserved category or having qualification in Urdu subject, vacant posts shall be filled up by candidates of unreserved category and general subjects, on the basis of seniority."

11. The 2010 Rules prescribes that the selection shall be made by Bihar Staff Selection Commission (hereinafter referred to as "the Commission") on the basis of applications received, in prescribed proforma, only from trained candidates.

12. The State of Bihar, through letter, dated 8.6.2010, sent requisition to the Commission to fill up the said 34,540 posts, which contained, inter alia, number of posts, district wise, in Urdu subject. The Commission, accordingly, came out with Advertisement No. 210 of 2010, dated 19.7.2010, inviting applications from trained candidates only. Clause 5 of the said advertisement prescribed the educational qualification in conformity with the provision as contained in Rule 3 of the 2010 Rules. Clause 5 of the Advertisement No. 210 of 2010, issued by the Commission, is reproduced below:-

13. If translated into English, Clause 5 of Advertisement No. 210 of 2010, issued by the Commission, reads thus:-

5. Educational qualification-Following educational qualification shall be essential for this post-

(i) Candidates should have passed Intermediate examination (except subparagraph-v) from school/college recognized by Centre or any State Government. Technical degree or degree/qualification in particular language awarded by any institution whose parity is not recognized by the General Administration Department (earlier Personnel and Administrative Reforms Department), Government of Bihar or Human Resources Development Department, Bihar for appointment/employment on the post of teacher, is not included under it.

(ii) Candidates should have passed two years training examination or B.Ed. examination, from an institution recognized by Centre or any State Government prior to 1995. Candidates should have passed two years teachers training diploma or B.Ed. or B.L.Ed. examination from an institution recognized by N.C.T.E. after 1995.

(iii) For posts of Urdu Teachers, candidates should have passed Maulvi examination (Intermediate level) from Bihar Madarsa Education Board or equivalent examination or with Urdu as subject of two 200 marks in Intermediate examination along with two years training examination.

(iv) For the post of Physical Teachers, candidates should be Intermediate pass and having degree of C.P.Ed./D.P.Ed.

(v) Such candidates who are domicile of Bihar State and have passed two years training course from any Training College recognized by the Government of Bihar

(undivided) prior to 1995 or have passed C.P.Ed./D.P.Ed. pass but are not Intermediate pass, may also apply for appointment. But it shall be mandatory for them to acquire Intermediate qualification within 4(four) years of their appointment."

14. It can be easily noticed that the requisite qualifications, prescribed under Clause 5 of the advertisement, are identical to the qualifications laid down under Rule 3 of the 2010 Rules.

15. The learned single Judge has gone in detail, referring to the fact as to how the selection and appointment to the post of teachers, in the light of Advertisement No. 210 of 2010, was being monitored by the Apex Court, by appointing a retired Chief Justice of Orissa High Court, Hon''ble Mr. Justice V.A. Mohta, and, later on, a retired Judge of Jharkhand High Court, Hon''ble Mr. Justice S.K. Chattopadhyay, who were appointed as Special Officers to look into and scrutinize each and every name of the candidates recommended by the Commission. The fact remains that the appellant's name figured as one of the selected candidate and, thus, the appellant was appointed as an Urdu teacher by the District Programme Officer, Nalanda, vide letter No. 303, dated 5.2.2012. It was, however, mentioned in the said letter that if any certificate, produced by the appellant, was found to be forged/incorrect, his appointment would be cancelled and steps will be taken for recovery of his salary. It was also contemplated in the said letter that in the event of any certificate having been found to have been issued by an Institute not recognized, the appellant's appointment shall be cancelled.

16. It is not the case of the respondents that any certificate, submitted by the appellant, at the stage of his selection and/or appointment, was found to be forged or was found to have been issued by an Institute having no recognition.

17. It seems that in SLP No. 11507 of 2012, one Javed Anwar raised an issue before the Apex Court that he had passed matriculation examination from Bihar School Examination Board, and had also completed 2-years teachers training course and was capable of teaching Urdu, but his case was not considered for appointment as a Urdu Teacher, whereas the present appellant, with similar qualification of passing Matriculation examination and 2-years of teachers' training course, had been appointed. The Apex Court, by order, dated 4.5.2012, directed the State Government to consider the grievance of the said Javed Anwar and it is in this background that the Principal Secretary, Education Department, Government of Bihar, held, by order, dated 3.9.2012, Javed Anwar not possessing the requisite qualifications for the post of Urdu teacher as Javed Anwar had neither passed Fokaniya examination prior to 1995 nor had he the qualification of Moulvi. He had not even passed Intermediate examination with Urdu as one of the subjects of 200 marks. Having found the said Javed Anwar not eligible for being appointed as a Urdu teacher, the Principal Secretary, in his letter, dated 3.9.2012, had observed that steps should be taken to cancel the appointment of the appellant as his case was identical to that of Javed Anwar.

The District Programme Officer (Establishment), Nalanda, acting in compliance of the order of the Principal Secretary, dated 3.9.2012, issued a show cause notice, dated 26.12.2012, to the appellant asking him as to why his appointment as a Urdu Teacher be not cancelled as he was having Matriculation qualification with 2-years of teachers training, which did not meet the requisite qualification for appointment as a Urdu teacher. The said show cause notice, dated 26.12.2012, was served on the appellant along with a copy of the order, dated 3.9.2012, passed by the Principal Secretary, Education Department, Government of Bihar.

18. The appellant, in reply to the said notice, took the plea, inter alia, that he had been appointed on the basis of orders and under supervision of Committee constituted by the Supreme Court and, therefore, his engagement, as a Urdu teacher, should not be disturbed.

19. Upon considering the appellant's reply to the show cause notice, by order, dated 19.1.2013, issued under the joint signatures of the District Education Officer and the District Project Officer, Nalanda, cancelled the appellant's appointment as a Urdu teacher with effect from the date of his appointment. It was also mentioned in the said order that the appellant had qualification of Matriculation and two years training and, therefore, he did not possess the requisite qualification for appointment as a Urdu teacher. In the order, dated 19.1.2013, there was a reference of the order, dated 3.9.2012, issued by the Principal Secretary, Education Department, Government of Bihar, whereby the case of Javed Anwar was rejected on the basis of an order issued vide memo No. 1097, dated 1.9.2010, wherein following qualification had been fixed for appointment as a Urdu teacher:-

- (i) Fokaniya with two years training in teaching (before 1995);
- (ii) Moulvi with two years training in teaching; and
- (iii) Two years training in teaching and Intermediate qualification with Urdu as one of the subjects of 200 marks/B.A/B.Ed.

20. We must reproduce, verbatim, the qualification, which according to the said order, dated 1.9.2010, a candidate was required to possess, for being appointed as a Urdu teacher:-

21. If translated into English, the above order will read as follows:-

"It has been communicated vide order of the Principal Secretary, Education Department, Bihar, Patna, contained in Memo No. 7/Man. 1-58/12-519 dated 3.8.2012, that qualification of candidate for appointment on the post of Urdu Teacher is prescribed in Memo No. 1097 dated 01.09.2010 of the departmental order which are as follows:-

1. Fokania with two years training (before 1995)
2. Qualification of Maulvi with two years training, and

3. Two years training with Urdu as subject of 200 marks in Intermediate/B.A./B.Ed.

22. From a bare reading of the order, dated 19.01.2013, it transpires that the decision to cancel the appellant's appointment as a Urdu teacher was based solely on the ground that he did not possess the qualification, laid down in the departmental order issued vide memo No. 1097, dated 1.9.2010, for appointment as a Urdu teacher.

23. Before we proceed further, it would be apt to bear in mind that Advertisement No. 210 of 2010, inviting applications for selection and appointment to the posts in question, was issued on 19.7.2010, i.e., prior to issuance of the said order, dated 1.9.2010. At the cost of repetition, it has to be recorded that the said Advertisement, dated 19.7.2010, prescribed the eligibility criteria, for appointment as Urdu teacher, which certainly did not refer to Fokaniya with two years' teachers training as qualification for appointment.

24. From the order, dated 19.1.2013, impugned in the writ proceedings, it appears that the District Project Officer and the District Education Officer, Nalanda, for the purposes of testing the appellant's eligibility for his appointment as a Urdu teacher, did not take into account the requisite qualification prescribed in the Advertisement issued on 19.7.2010 and Rule 3 of the 2010 Rules. We will be discussing the effect of non-consideration of the relevant provisions of 2010 Rules and minimum eligibility condition laid down, in the advertisement, by the authorities, who had passed the order, dated 19.1.2013.

25. The appellant, by filing a writ application under Article 226 of the Constitution of India, challenged the legality of the order, dated 19.1.2013, by which his appointment, as a Urdu teacher, was cancelled. The learned Single Judge dismissed the writ petition primarily on the ground that for appointment as a Urdu teacher, one had to have the qualification as prescribed under Rule 3(iv) of the 2010 Rules and the exemption granted under Rule 3(vi) of the Rules was not applicable for the candidates for appointment as Urdu teachers. The learned single Judge, referring to the Departmental order, dated 1.9.2010, arrived at the conclusion that the Principal Secretary, having clarified that only those candidates were entitled to be considered for appointment as Urdu teachers, who have Fokaniya qualification with two years teachers' training (prior to 1995) in addition to the qualification as mentioned in the advertisement, the Commission ought not to have recommended the appellant's name for appointment as a Urdu teacher. The learned single Judge, in the order under appeal, has held that the petitioner did not possess the requisite qualification for his appointment as a Urdu teacher and, therefore, refused to interfere with the order impugned in the writ petition.

26. In the above backdrop, the present appeal has been preferred by the appellant against the order, dated 5.8.2015, dismissing the writ application passed by learned Single Judge in CWJC No. 2519 of 2013.

27. After having heard learned counsel appearing on behalf of the appellant and the respondents, the sole question which, in our opinion, has arisen in this case for adjudication is as to whether sub-rule (vi) of Rule 3 of the 2010 Rules shall apply to the general teachers only or it will be applicable for Urdu teachers too. Another question, which has arisen in the present case, is as to whether by way of executive instruction/departmental order, the Statutory Rules, framed in exercise of powers under Article 309 of the Constitution of India, could, in effect, be modified in the name of clarification as regards qualification of teachers. We are also required to consider whether issuance of the departmental order, dated 1.9.2010, amounts to laying down qualification for Urdu teachers, which was neither contemplated in the said Rules nor prescribed in the subsequent Advertisement. We will, accordingly, be considering the legality of the order, dated 19.1.2013, impugned in the writ petition and the correctness of the decision of the learned Single Judge.

28. We have already extracted Rule 3 of the Rules hereinabove. Rule 3 of the Rules prescribes following qualification for appointment as teacher:-

(a) Intermediate qualification from an Institution recognized by the Central Government or the State Government. It is clearly mentioned that such technical degree or degree in any special language or qualification with respect to which no equivalence has been prescribed by the Administrative Reforms Department or Human Resources Development Department for appointment to the post of teacher, shall not be included for the purpose of requisite qualification. [(sub rule (ii))].

(b) Passed B.Ed. examination or two years teachers training course from an Institution recognized by the Central Government or the State Government, before 1995. After 1995, one must have passed in B.Ed./B.L.Ed./two years teachers training diploma from an Institution recognized by NCTE [sub rule (iii)].

(c) For the post of Urdu teacher, Moulvi (Intermediate level) qualification from Bihar Madarsa Shiksha Board or equivalent examination or Intermediate qualification with Urdu as subject of 200 marks and passed in two years teachers training course [sub rule (iv)].

(d) For the post of Physical Teachers, Intermediate qualification with E.P.Ed./B.P.Ed. [sub rule (v)].

(e) Such candidates who are residents of Bihar and have passed two years teachers training course or C.P.Ed. prior to 1995 from any Institute of undivided State of Bihar but have not passed Intermediate examination, may also apply for appointment, but they will have to acquire Intermediate qualification within four years from the date of their appointment.

(Emphasis is added)

29. The preface of the 2010 Rules and the background, whereunder the process of filling up the posts of teacher was undertaken, would go to show that it was

intended to ensure that only such persons, who held teachers training qualification, were to be appointed against such posts. A close scrutiny of Rule 3 of the 2010 Rules makes us to understand that qualification, in teachers training, was the basic requisite qualification for appointment as a teacher. For Urdu teacher, as has been mentioned above, following qualification has been prescribed under the 2010 Rules:-

(i) Moulvi (Intermediate level) from Bihar Madarsa Shiksha Board or equivalent qualification

OR

Intermediate examination and Urdu as a subject of 200 marks; and

(ii) Successful completion of two years teachers training.

30. Evidently, apart from having successfully completed 2-years teachers training examination, a candidate, having Moulvi qualification or intermediate qualification with Urdu as one of the subject of 200 marks, will have requisite qualification for appointment as a Urdu Teacher. Sub-rule (vi) of Rule 3 of the 2010 Rules provides relaxation/exemption to such candidates, who do not possess intermediate qualification, but have successfully completed 2-years teachers training course or C.P.D. Course prior to 1995 subject to the condition that they will acquire intermediate qualification within four years of their appointment. We do not find any reason as to why sub-rule (vi) of Rule 3 will not be made applicable to Urdu teachers, for whom also qualification of intermediate has been laid down as requisite qualification under sub-rule (iv) of Rule 3. There is nothing, under the 2010 Rules, to infer that sub-rule (vi) shall apply to general teachers only to the exclusion of other category of teachers.

31. It is well recognized principle of statutory interpretation that language of a Statute should be read as it is and the intention of the legislature is required to be gathered from the language used in the Statute. We do not find that Rule 3(vi) of the 2010 Rules carves out any exception for the purposes of its applicability so far as it relates to the Urdu teachers.

32. Situated thus, it was not permissible for the Department concerned to have introduced anything contrary to the 2010 Rules, whereas the Department, by issuing order, dated 1.9.2010, has, may be inadvertently, added, by way of clarification, a provision, which was not incorporated in Rule 3. For the first time, as has been mentioned above, Fokaniya, with 2-years teachers training (before 1995), came to be introduced as a requisite qualification for Urdu teachers. The learned single Judge has rightly held, in the order under appeal, that the clarification, issued by order, dated 1.9.2010, by way of executive instruction, would not override the statutory provisions made in the 2010 Rules. The learned single Judge, however, held, in paragraph 46 of the impugned judgment, as follows:-

"46. There is also nothing in Rule 3(vi) on the basis of which it could be read that

even a Matriculate with 100 marks of Urdu could be considered for appointment on the post of Urdu teacher. In Rule 3(vi) there is a categorical provision that only such candidates who have completed teachers training course prior to 1995 and are not Intermediate would be qualified. The question, however, would be if for the post of Urdu teacher Matriculation with 100 marks was not the prescribed qualification and even if the State Government has held Fokania to be equivalent to Matriculation, such equivalence for the specialized post of Urdu teacher cannot be made applicable. In any event the clarification dated 1.9.2010 being only by way of executive instruction it cannot be override the statutory provision made in 2010 Rules, as quoted above. The qualification, therefore, for the post of Urdu teacher would remain unaffected as prescribed under Rule 3(vi) and since the petitioners are not holding the qualification of Fokania they cannot be asked for equivalence of their Matriculation with 100 marks of Urdu to be at par with Fokania."

33. We have not been able to find out any reason, upon reading of Rule 3 of the 2010 Rules, as a whole, as to why sub-rule (vi) should be read to the exclusion of the provisions laying down qualification for Urdu Teachers and shall apply only to general teachers and physical teachers.

34. As has been noted above, the Rule 3 of the 2010 Rules prescribed qualification for:-

(a) General Teachers

(b) Urdu Teachers

(c) Physical Teachers

35. Sub-rule (vi) of Rule 3 of the 2010 Rules does not specify that it shall not apply to Urdu teacher. In such circumstances, we are unable to accept the view taken by the learned Single Judge that the said sub-rule (vi) will have no application so far as it relates to prescribing qualification of Urdu teachers, for which, intermediate qualification, with Urdu as a subject of 200 marks, is also a requisite qualification. If such interpretation is given to sub-rule (vi) of Rule 3 of the 2010 Rules, this will amount to carving out an exception by reading something into sub-rule (vi), which has not been provided therein. Such exercise will have the effect of adding or mending and subscribing, by way of construction, which is not there in the Statute.

36. In our considered view, it would be impermissible, by way of construction, to add or substitute words into the Statute, i.e., 2010 Rules and, will amount to reframing the legislation, i.e., 2010 Rules, which cannot be done by way of statutory interpretation. This view finds support from the decisions of the Supreme Court in the cases of State of Kerala Vs. Mathai Verghese and Others, , Union of India and another Vs. Deoki Nandan Aggarwal, , J.P. Bansal Vs. State of Rajasthan and Another, and State of Jharkhand and Another Vs. Govind Singh, .

37. From the order, dated 19.01.2013, whereby the appellant's appointment as a Urdu teacher came to be cancelled and which was impugned in CWJC No. 2519 of 2013, it appears that application of Rule 3(vi) of the 2010 Rules has not at all been taken into consideration. It is the specific stand of the appellant that at the time of his appointment as a Urdu teacher, he held the matriculation qualification with Urdu as a subject and had completed successfully 2-years teachers training course. Had he been having intermediate qualification with Urdu as a subject of 200 marks, he would not have fallen in the category prescribed under Rule 3(iv) of the Rules. However, since he was having the qualification of 2-years teachers training and was not having intermediate qualification with Urdu as a subject (by applying Rule 3(vi) of the 2010 Rules), he was rightly appointed as Urdu teacher.

38. In our opinion, if intermediate, in general course, and intermediate, with Urdu, as a subject have been prescribed as requisite qualification under the 2010 Rules for appointment of general teachers and Urdu teachers respectively and there is specific provision in Rule 3 that candidates, not having intermediate qualification, may also apply for teachers under the 2010 Rules, it would be discriminatory if such exemption, granted under sub-rule (vi) of Rule 3, is confined for determining eligibility condition of general teachers only.

39. We, upon scrutiny and reading of Rule 3 of the 2010 Rules, in its totality, hold that sub-rule (vi) of Rule 3 will apply for the purpose of determining the requisite educational qualification for Urdu teachers also under the 2010 Rules and the appellant cannot be said to be not qualified for appointment as a Urdu teacher on the date of his appointment (i.e., on 5.2.2012). The view taken by the learned single Judge, in the order under appeal, for the purpose of determination of educational qualification of Urdu teacher that exemption will not be applicable as provided under the 2010 Rules or clause (5)(v) of the Advertisement based on Rule 3(vi) of the 2010 Rules, is not tenable in law.

40. We, accordingly, set aside the order under appeal, dated 5.8.2015, passed in CWJC No. 2519 of 2013. The order, dated 19.1.2013, issued under the joint signatures of the District Project Officer and the District Education Officer, Nalanda, which is impugned in CWJC No. 2519 of 2013, is also set aside and quashed as illegal and unjustifiable.

41. As a result, this appeal stands allowed. CWJC No. 2519 of 2013 also stands allowed.

I.A. Ansari, Actg. C.J.

I agree.