

# Mohammad Abul Lash vs State Of U.P. on 7 January, 2020

**Bench: L. Nageswara Rao, Hemant Gupta**

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S)NO. 37 of 2020  
(Arising out of SLP(C)No.23470/2015)

MOHAMMAD ABUL LASH

Appellant (

VERSUS

STATE OF U.P. & ORS.

Respondent

O R D E R

Leave granted.

The appellant filed a Writ Petition in the High Court of Allahabad, Lucknow Bench seeking following reliefs:

“i. Issue writ, order or direction in the nature of mandamus commanding the opposite parties and directing them to pay arrears and regular salary to the petitioners for the post of Assistant Teacher.

ii. Issue any other writ direction or order which is just deem fit and proper in the circumstances of the case.

iii. Award the cost of the petition in favour of the petitioners.” The said Writ Petition was dismissed by a judgment dated 20.08.2014. The High Court took note of the fact that the appellant applied and was selected for appointment to the post of Assistant Teacher. He was appointed on 28.11.1995. While sending the information pertaining the qualifications of the appellant to the District Basic Education Officer, it was found that the appellant was not qualified as per Rule 4 of the U.P. Recognized Basic Schools (Junior High Schools) (Recruitment and conditions of Services of Teachers) Rules, 1978, which is as follows:

“4. Minimum qualification – (1) The minimum qualification for the post of assistant teacher of a recognized school shall be Intermediate Examination of the Board of High School and Intermediate Education, Uttar Pradesh or equivalent examination (with Hindi and Teacher’s training course recognized by State Government or the Board such as Hindustani Teaching Certificate, Junior Teaching Certificate, basic Teaching Certificate or Certificate of Training).

(2) The minimum qualifications for appointment to the post of Headmaster of a recognized school shall be as follows:

(a) A degree from a recognized University or an equivalent examination recognized as such;

(b) A teacher’s training course recognized by the State Government or the board such as Hindustani Teaching Certificate, Junior Teaching Certificate, Certificate of Training or Basic Teaching Certificate; and

(c) Three years’ teaching experience in a recognized school.” The High Court has also observed that the appellant who did not have the requisite qualification of completing a teachers training course subsequently acquired the qualification. It is relevant to note that the appellant was continuously working since the date of his appointment in 1995. He also had the benefit of the interim order dated 23.05.1997 pursuant to which he was paid salary.

The judgment of the learned Single Judge of the High Court was affirmed as the appeal filed by the appellant was dismissed by the impugned judgment.

Though the appellant was not qualified at the time of appointment, he acquired the requisite qualification later. He cannot be said to be ineligible to hold the post of Assistant Teacher. Taking into account the fact that he has been working continuously since the date of appointment i.e. 1995, we are inclined to grant relief to the appellant as prayed for in the writ petition in the peculiar facts and circumstances of this case.

The judgment of the High Court is set aside. The appeal is allowed. Pending applications, if any, stand disposed of.

.....J. (L.NAGESWARA RAO) .....J. (HEMANT GUPTA) NEW DELHI;

07th January, 2020

ITEM NO.27

COURT NO.11

SECTION XI

S U P R E M E C O U R T O F  
RECORD OF PROCEEDINGS

I N D I A

Petition(s) for Special Leave to Appeal (C)

No(s).23470/2015

(Arising out of impugned final judgment and order dated 19-12-2014 in SAD No.701/2014 passed by the High Court Of Judicature At Allahabad, Lucknow Bench) MOHAMMAD ABUL LASH  
Petitioner(s) VERSUS STATE OF U.P. & ORS. Respondent(s) Date : 07-01-2020 This petition was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO HON'BLE MR. JUSTICE HEMANT  
GUPTA For Petitioner(s) Mr. Purushaindra Kaurav,Sr.Adv.

Mr. Sandeep Singh, AOR Mr. Divyansh Rai,Adv.

For Respondent(s) Mr. Krishnanand Pandey, AOR Mr. Anil Kr. Verma,Adv.

Mr. Christopher Dsouza, AOR UPON hearing the counsel the Court made the following O R D E R Leave granted The appeal is allowed in terms of the signed order. Pending application, if any stand disposed of.

(B.Parvathi)  
Court Master

(Anand Prakash)  
Court Master

(Signed order is placed on the file)