

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**WEDNESDAY, THE EIGHTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN**

WRIT APPEAL NO: 51 OF 2026

Writ Appeal under clause 15 of the Letters Patent Filed against the order
Dated 05/12/2025 in writ petition No 28608 of 2024 on the file of the High Court.

Between:

Shaheen Fathima, W/o. Mohd. Suleman, Aged about 38 years, Unemployee,
R/o. 5-10-296, Manyamchalka, Besides Veterinary Hospital, Venuka,
Nalgonda, Nalgonda District

...APPELLANT

AND

1. The Commissioner of School Education, State of Telangana, Hyderabad
2. The District Educational Officer, Nalgonda, Nalgonda District.
3. The District Collector, Nalgonda, Nalgonda District.
4. State of Telangana, rep., by its Principal Secretary to Government, School Education Department, Secretariat, Hyderabad
5. Mohd. Irfan, S/o. Mohd. Yousuf, Selected candidate for the post of Physical Education Teacher (Urdu Medium), R/o. 1-54, Bankapuram, Nidmanoor, Nalgonda District 508 278.
6. Samrath Jahan, D/o. Magdoom Mohiuddin, Selected candidate for the post of Physical Education Teacher (Urdu Medium), R/o. 5-8-89/4, Barkathpura, NT Road, Nalgonda - 508 001.

...RESPONDENTS

I.A. NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents to consider the case of the petitioner for appointment to the post of

Physical Education Teacher (Urdu) in Nalgonda District based on her merit obtained in DSC 2024, if necessary, by suspending the appointment orders issued in favour of the unofficial respondents who obtained lesser ranking than the petitioner in the selection process, pending disposal of the writ appeal.

Counsel for the Appellant: SRI MAMIDI SAI YADAV

**Counsel for the Respondent No.5 & 6: Kum. K.BHARGAVI, REP.
SRI SAI PRASEN GUNDAVARAM**

**Counsel for the Respondent No.1 to 4: SRI SANTHAPUR SATYANARAYANA
RAO, GP FOR SERVICES-I**

The Court delivered the following: JUDGMENT

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND**

THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT APPEAL No.51 of 2026

DATE:18.02.2026

Between:

Shaheen Fathima

....Appellant

And

The Commissioner of School Education
and 5 others

....Respondents

JUDGMENT

Heard Sri Mamidi Sai Yadav, learned counsel for the appellant; Sri Santhapur Satyanarayana Rao, learned Government Pleader (Services-I), appearing for respondent Nos.1 to 4 and Kum. K.Bhargavi representing Sri Sai Prasen Gundavaram, learned counsel for the respondent Nos.5 and 6 and perused the record.

2. This writ appeal, preferred under Clause 15 of the Letters Patent, assails the order dated 05.12.2025 passed by the learned Single Judge in W.P.No.28608 of 2024. By the said order, the learned Single Judge dismissed the writ petition instituted by the appellant herein, who had sought a direction to the respondent-authorities to consider

her candidature for appointment to the post of Physical Education Teacher (PET) (Urdu Medium) under DSC-2024 in Nalgonda District.

Factual background (in brief)

3. The appellant claims to belong to BC-'E' category and to be a local candidate of Nalgonda District, completed her SSC examination in March, 2001, and thereafter passed the Intermediate examination in March, 2003.

4. Appellant subsequently acquired a Bachelor of Arts (B.A.) degree in April, 2007, and a Bachelor of Physical Education (B.P.Ed.) degree in March/April, 2012. In December, 2014, appellant again appeared for and passed the Intermediate examination through the Telangana Open School Society (TOSS), with Urdu as the second language.

5. Pursuant to Notification No.24/RC-1/TRT/DSC/2024 dated 29.02.2024 issued by the Commissioner of School Education, Telangana, inviting applications for direct recruitment to various teaching posts under DSC-2024, the appellant applied for the post of PET (Urdu Medium) in Nalgonda District.

6. The appellant appeared in the Computer Based Test held on 18.07.2024 and secured Rank No.4 with 43.50 marks in the General Ranking List for the said post. During certificate verification conducted from 01.10.2024 to 05.10.2024, candidates ranked above

the appellant did not attend, thereby placing the appellant first among the candidates who participated.

7. However, the appellant's candidature was not considered for appointment. Aggrieved by the inaction of the official respondents in not selecting the appellant and selecting respondent Nos.5 and 6 herein, the appellant filed WP.No.28608 of 2024. The appellant had also filed an interlocutory application in the said W.P.No.28608 of 2024 seeking a direction to the official respondents to consider the appellant's representations dated 11.10.2024 and 14.10.2024.

8. By interim order dated 16.10.2024 in W.P.No.28608 of 2024, this Court directed the respondents to consider her representations. In compliance thereof, the District Educational Officer (DEO), Nalgonda, passed a speaking order dated 06.12.2024 rejecting appellant's claim, relying upon Guideline No.5(c) in the proceedings dated 30.09.2024, which stipulated that a candidate who acquired a lower qualification after acquiring a higher qualification would be ineligible. Since the appellant had obtained her B.P.Ed. degree in 2012 and thereafter secured the Intermediate qualification from TOSS in 2014, she was held ineligible.

9. The appellant accordingly amended the writ petition to challenge the said order and the guideline dated 30.09.2024. During the course of proceedings, respondent Nos.5 and 6 have placed on

record the fact that the appellant had already passed Intermediate in 2003 and that her subsequent enrollment in TOSS in 2014 was contrary to Clause 1.2 of the TOSS Prospectus, which prohibits candidates who have already passed Intermediate from enrolling again for the same course.

10. By order dated 05.12.2025, the learned Single Judge held that the rejection order dated 06.12.2024, being founded upon guidelines issued subsequent to the recruitment notification, was unsustainable. Nevertheless, upon examining the validity of the TOSS Intermediate certificate, the learned Single Judge concluded that the appellant, having already passed Intermediate in 2003, was ineligible to enroll again in 2014 and that the certificate so obtained was *void ab initio*, and dismissed the writ petition. Aggrieved thereby, the appellant has preferred the present appeal.

Contentions on behalf of the appellant

11. Learned counsel appearing for the appellant has raised the contentions as under:

- i. That the learned Single Judge travelled beyond the scope of the pleadings and relief sought in the writ petition, as the writ petition was confined to a challenge against the rejection of the appellant's candidature for the post of PET (Urdu Medium)

under DSC-2024, which rejection was founded solely on Guideline No.5(c) dated 30.09.2024.

- ii. That the validity of the Intermediate certificate obtained by the appellant from the TOSS in 2014 was never the basis of the impugned rejection order dated 06.12.2024. Thus, the learned Single Judge could not have *suo motu* embarked upon an enquiry into the validity of the TOSS certificate and declared the same *void ab initio*, particularly when TOSS was not impleaded as a party to the proceedings and no declaratory relief was sought in that regard.
- iii. That the finding declaring the TOSS certificate *void ab initio* was rendered in violation of the principles of natural justice, as the appellant was never put on notice that the validity of her TOSS qualification would be examined. Though respondent Nos.5 and 6 raised such a contention in their counter-affidavit, the learned Single Judge, proceeded to record a conclusive finding affecting the appellant's academic credentials without framing an issue or affording a specific opportunity to address the legal consequences of such a declaration.
- iv. That the prospectus issued by TOSS does not have the force of a statutory rule. At best, it constitutes conditions governing enrollment between the candidate and the institution. Any

alleged violation thereof may give rise to proceedings by TOSS in accordance with law, but until the certificate is cancelled by the competent authority, it remains a valid qualification issued by a recognized Board.

- v. That the selecting authority or the writ Court, in collateral proceedings, cannot treat such a certificate as void in the absence of any formal cancellation by TOSS, as once a recognized Board issues a certificate, its validity cannot be questioned by another authority without due process.
- vi. By placing reliance on the judgement of the High Court of Andhra Pradesh in ***D. Sudhakar and others v. State of Andhra Pradesh***¹ it is contended that in the absence of a specific statutory prohibition, acquisition of a qualification subsequent to a higher qualification would not render a candidate ineligible.
- vii. That the DSC-2024 notification does not prohibit a candidate from acquiring a lower qualification after obtaining a higher one, and that the learned Single Judge himself held Guideline No.5(c) to be unsustainable as it was issued after the recruitment notification. Having recorded such a finding, it was argued, the learned Single Judge ought not to have

¹ 2019 (6) ALD 10 (AP)

dismissed the writ petition on a different and independent ground.

Contentions on behalf of the respondents

12. Learned Government Pleader for Services-I appearing for respondent Nos.1 to 4, and learned counsel appearing for respondent Nos.5 and 6, have supported the learned Single Judge's order and raised the contentions as under:

- i. That the finding recorded by the learned Single Judge regarding the invalidity of the appellant's TOSS Intermediate certificate goes to the root of the matter and is sufficient to non-suit the appellant. That if the foundational qualification itself is void, the appellant cannot claim consideration for appointment to a post earmarked for Urdu Medium candidates.
- ii. That Clause 1.2 of the TOSS Prospectus expressly prohibits enrollment for Intermediate by a candidate who has already passed the said qualification from another Board and provides that any certificate obtained by suppressing such fact is liable to cancellation.
- iii. That the appellant, having passed Intermediate in the year 2003, was ineligible to enroll again in the year 2014 and that the certificate obtained in violation of the said prohibition is *void ab initio*. The Court merely recognized the legal

consequence flowing from the breach of a binding condition and did not usurp the powers of TOSS.

- iv. That the issue regarding the validity of the TOSS certificate was specifically raised in the counter-affidavit of respondent Nos.5 and 6, to which the appellant filed a reply affidavit dealing with the said contention. Hence, it cannot be said that the appellant was taken by surprise or denied an opportunity of hearing.
- v. That suppression of the earlier Intermediate qualification amounted to misrepresentation, rendering the subsequent certificate a nullity. It was also argued that the **D. Sudhakar** (supra 1) relied upon by the appellant is distinguishable on facts, as in the present case the very validity of the qualification relied upon is under challenge.
- vi. That a writ court, while exercising jurisdiction under Article 226, is competent to examine whether the relief sought is founded upon a valid and lawful qualification, and that the appellant, not having approached the Court with clean hands, was not entitled to any equitable relief.

13. We have taken note of the respective contentions urged and perused the material on record.

Consideration by this Court

14. The main controversy in the present appeal that arises for determination is whether the learned Single Judge committed any

error, either of law or jurisdiction, in holding that the Intermediate certificate obtained by the appellant from the TOSS in December, 2014 is *void ab initio* and, on that basis, dismissing the writ petition.

15. At the outset, it is necessary to delineate the scope of interference in an intra-court appeal under Clause 15 of the Letters Patent. Although this Court, in exercise of such jurisdiction, is empowered to re-examine questions of fact as well as law, it is well settled that the findings recorded by a learned Single Judge are not to be interfered with, unless such findings are perverse, unsupported by evidence, vitiated by a misappreciation of the material on record, or suffering from a manifest error of law. The appellate Court would be slow to supplant its own view merely on the ground that another view is possible.

16. The fulcrum of the learned Single Judge's decision to dismiss the writ petition is the finding that the appellant's TOSS Intermediate certificate is *void ab initio*. The admitted factual position is that the appellant had already passed Intermediate in March, 2003 from the Board of Intermediate Education (BIE) with English as her first language and Telugu as her second language. Notwithstanding the same, appellant enrolled with TOSS and passed Intermediate again in December, 2014, with English as first language and Urdu as second language. Clause 1.2 of the TOSS Prospectus, which governed admissions in the year 2014, categorically stipulates that persons

who have already passed SSC/Intermediate from any other Board shall not enroll again for the same course, and that if any person does so by suppressing such fact, the certificate is liable to be cancelled.

The Clause 1.2 is reproduced hereunder:

"1.2 SSC/Intermediate Certificate Holders of other Boards should not enroll once again for SSC/Intermediate of Telangana Open School:

Persons who have already passed SSC/Intermediate from any other Board of Secondary Education/Intermediate Education of Telangana or from other states should not enroll for SSC/Intermediate Course of Telangana Open School for any reason. On the contrary, if anyone enrolls and passes SSC/Intermediate from Open School suppressing the information that they have already passed SSC/Intermediate from another Board, their SSC/Intermediate pass certificates will be cancelled."

17. The contention of the appellant that the prospectus not being a rule or regulation does not have binding force, cannot be accepted. A prospectus issued by a recognized educational body such as TOSS embodies the conditions of eligibility and enrollment. A candidate seeking admission is bound by those conditions. The prohibition contained in Clause 1.2 is clear and unequivocal. Enrollment in contravention thereof, particularly upon suppression of an earlier qualification, strikes at the root of eligibility. A certificate obtained in violation of an express prohibition cannot be treated on par with a qualification lawfully obtained. A document procured by misrepresentation or suppression of material facts does not confer an enforceable right.

18. The contention that the learned Single Judge travelled beyond the scope of the writ petition does not commend acceptance. It is no

doubt true that the rejection order dated 06.12.2024 was founded upon Guideline No.5(c). However, in the course of the writ proceedings, respondent Nos.5 and 6 specifically pleaded that the appellant's Intermediate certificate obtained from TOSS was secured in violation of the TOSS Prospectus and was, therefore, invalid. The appellant, in response thereto, filed a reply affidavit and consciously chose to meet the said contention on merits by asserting that the prospectus was not binding in nature. Having thus joined issue on the validity of the certificate, it is not open to the appellant to subsequently contend that the matter is beyond the scope of the writ petition. Once a plea is specifically raised in the pleadings and contested by both parties, it becomes part of the *lis* and is amenable to adjudication. A writ Court, particularly while exercising discretionary jurisdiction in matters of public employment, is not precluded from examining a foundational issue that bears directly upon the eligibility of the candidate.

19. Further on perusal of the record, it discloses that the appellant was fully aware of the challenge to the validity of her TOSS certificate. Appellant had ample opportunity to explain the circumstances of her enrollment with TOSS and to rebut the allegation of suppression. Instead, appellant confined her defence to the contention on a hyper-technical argument that the prospectus is not binding. In these circumstances, the appellant being clearly aware of the allegation,

cannot be said that she was condemned unheard resulting in violation of principles of natural justice.

20. The contention that the TOSS ought to have been impleaded before any finding was recorded regarding the validity of the certificate, does not merit acceptance for the following reasons:

- i) Firstly, the observation of the learned Single Judge that the certificate is "*void ab initio*" does not amount to a formal order of cancellation directed against TOSS. It is a judicial determination rendered for the limited purpose of examining the appellant's eligibility for public appointment. The finding operates *inter partes* and signifies that, for the purposes of the present *lis*, the certificate, having been obtained in violation of the governing conditions cannot be relied upon. It does not mandate any action by TOSS nor does it purport to annul the certificate in *rem*.
- ii) Secondly, the principles of natural justice do not require that every authority which may be indirectly affected by a finding must be impleaded as a party. The *lis* before the Court concerned the appellant's entitlement to be considered for appointment. In that context, the Court was competent to examine the legal sustainability and evidentiary value of the qualification relied upon. While a formal proceeding for cancellation of the certificate may

necessitate the presence of TOSS, an incidental judicial finding as to its validity for the limited purpose of adjudicating eligibility does not suffer from procedural infirmity.

- iii) Thirdly, the prejudice, if any, flows not from any act of the Court but from the appellant's own conduct in enrolling herself contrary to the express conditions of the prospectus. The equitable jurisdiction of this Court cannot be invoked to lend sanctity to a document obtained in violation of binding conditions. The maxim *actus curiae neminem gravabit* (*An act of Court shall prejudice no man*) has no application in such circumstances.

21. Furthermore, the reliance placed by the appellant on the judgment in **D. Sudhakar** (supra 1) is, in our considered view, misplaced and clearly distinguishable on facts. In the said case, the Division Bench was concerned with candidates who admittedly possessed a valid Intermediate qualification with Urdu, and whose candidature was rejected solely on the ground that such qualification had been acquired subsequent to obtaining a higher qualification such as Degree or B.Ed. The Court held that, in the absence of any express prohibition in the applicable Rules of 2011, acquisition of a qualification after a higher qualification could not operate as a disqualification. However, in the present case, the validity of the

qualification itself is in issue and also the very foundation of the appellant's claim; namely, the TOSS Intermediate certificate is under serious cloud and has been found to have been obtained in violation of the binding conditions of enrollment. Thus, the reliance placed on **D. Sudhakar** (supra 1) does not advance appellant's case.

22. The learned Single Judge held that the rejection order dated 06.12.2024, insofar as it was based on Guideline No.5(c), was unsustainable, as the guideline was issued after the commencement of the recruitment process. It is well settled, as held by the Hon'ble Supreme Court in **K. Manjusree v. State of A.P.²** and **Tej Prakash Pathak v. Rajasthan High Court³**, that the rules of the game cannot be altered after the selection process has begun. However, the dismissal of the writ petition was not founded on the said well accepted guideline. The learned Single Judge proceeded to record an independent finding regarding the invalidity of the appellant's TOSS Intermediate certificate, which formed the substantive basis for non-suiting her. The observation on the guideline, even if favourable to the appellant, does not affect the ultimate conclusion, which rests on a separate and sustainable ground. Therefore, we find no error in the learned Single Judge's view.

Conclusion

² (2008) 3 SCC 512

³ 2024 SCC Online SC 3184

23. For the foregoing reasons, this Court is of the considered view that the appellant, having already passed the Intermediate examination in March, 2003, was clearly ineligible to enroll again for the same course under the TOSS in December, 2014, in view of the express prohibition contained in Clause 1.2 of the governing Prospectus. Therefore, this Court finds no error of law, perversity, or jurisdictional infirmity in the order dated 05.12.2025 passed by the learned Single Judge in W.P.No.28608 of 2024, so as to warrant interference in the present intra-court appeal.

24. Accordingly, the Writ Appeal is dismissed. The order dated 05.12.2025 passed in W.P.No.28608 of 2024 is affirmed.

As a sequel, miscellaneous petitions, pending if any, stand closed. No costs.

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SD/-MOHD. ISMAIL
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. One CC to SRI MAMIDI SAI YADAV, Advocate [OPUC]
2. One CC to SRI SAI PRASEN GUNDAVARAM, Advocate [OPUC]
3. Two CCs to GP FOR SERVICES-I, High Court for the State of Telangana at Hyderabad [OUT]
4. Two CD Copies

BSR *Ks*
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HIGH COURT

DATED: 18/02/2026

JUDGMENT

WA.No.51 of 2026



**DISMISSING THE WRIT APPEAL,
WITHOUT COSTS**

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