

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Special Appeal No 381 of 2015**

Smt. Indu Gaur

.....Appellant

**Versus**

State of Uttar Pradesh and others

.....Respondents

Mr. J.P.Joshi, Senior Advocate, assisted by Mr. Sushil Vashisth,  
Advocate, present for the appellant.

Mr. H.M. Bhatia, Brief Holder, present for the State.

**.Coram : Hon'ble K.M.Joseph, C. J.  
Hon'ble U.C. Dhyani, J.**

**K.M.Joseph, C. J. (oral)**

Appellant, feeling aggrieved by the transfer, approached the learned Single Judge. According to the appellant, she is a victim of Chronic Asthama and Arthritis, and therefore, she is exempted from the Rule 10 of the concerned statutory rules. The learned Single Judge did not allow the appellant to lay store by the Medical Certificate issued by the State Medical Board reasoning that one Member of the Board was an Eye Surgeon.

2. We heard learned Senior Counsel for the appellant Shri J.P.Joshi and learned Government Pleader Shri H.M.Bhatia.

3. We notice that actually the appellant has an alternative remedy under Rule 26 of the concerned Rules and we feel that the appellant should be relegated to pursue the said remedy.

4. Accordingly, we dispose of the Appeal as follows:

5. We modify the judgment of the learned Single Judge. We permit the appellant to approach the competent statutory authority within

a period of one week and if such a representation is received by respondent no.3 /Additional Director (Primary Education) Garhwal Mandal, Pauri, he will consider and take a decision by giving reasons on the same within a period of two weeks from the date of receipt of a certified copy of this Judgment along with representation. We leave open all the contentions of the appellant.

**(U.C. Dhyani, J.)**  
**31.07.2015**

**(K.M. Joseph, C. J.)**  
**31.07.2015**

Kaushal