
(2010) 07 AHC CK 0269
In the Allahabad High Court
Case No : Writ Petition No. 3809 (S/S) of 2010

Abdul Bari and another	Vs	APPELLANT
State of U.P. and others		RESPONDENT

Date of Decision : 02-07-2010

Acts Referred:

Citation : (2010) 07 AHC CK 0269

Hon'ble Judges : S.S.Chauhan, J

Final Decision : Dismissed

Judgement

S.S. Chauhan, J.—The present petition has been filed for quashing of the notification dated 5.5.2010 and the Government Order dated 29.6.2002 and with a further prayer to remove the restriction imposed by the said Government Order.

2. The petitioners in pursuance to the advertisement applied for the post of Nyay Panchayat Resource Coordinator and they were selected and thereafter appointment letters were issued in their favour. The petitioners joined in pursuance to the aforesaid appointment letters and continued to discharge their duties as Nyay Panchayat Resource Coordinator up till now. Thereafter, Government Order, which was issued on 1.9.2001, was amended by means of the Government Order dated 29.6.2002 making certain amendment in the procedure of appointment, wherein it was provided that all those teachers, who have worked as Coordinator of Block Resource Centre and Assistant Coordinator of Block Resource Centre for a period of two years, will not be selected again for the said post and new incumbents will be given opportunity with certain experience enumerated therein to the extent of having teaching experience of eight years in basic schools and three years for Assistant Coordinator of Block Resource Centre and five years for Coordinator of Nyay Panchayat Resource Centre. The said Government Order is put to challenge by way of this petition.

3. Submission of learned counsel for the petitioners is that petitioners have already worked for a period of two years and, therefore, they are entitled to continue and they cannot be replaced by a similarly selected person on officiating

basis. He further submits that no defect has been found in the working of the petitioners and moreover the petitioners have been considerable experience and, therefore, they are entitled for the continuance on the post in question and the fresh advertisement is liable to be quashed.

4. I have heard learned counsel for the petitioners and have given my anxious consideration to the arguments advanced by him and I find that the aforesaid decision has been taken as a policy matter by the State Government after taking various factors into consideration. The State Government has found that it was necessary to amend the aforesaid Government Order and provide the period of working of Coordinator of Block Resource Centre and Coordinator of Nyay Panchayat Resource Centre for a period of two years only with a view to give chance to the new incumbents, who are more energetic and who may not involve in the corruption and other activities and the teachers, who have worked for a period of two years may engage themselves seriously in the teaching business and hence the period of two years is sufficient guideline and necessary factor. A letter has been written by the State Project Director on 4.5.2002 and the said letter has been taken into consideration for amending the Government Order.

5. The Court is not supposed to go beyond the policy of the Government and laying of the new policy cannot be questioned by the petitioner before this Court unless it is against the constitutional mandate or against any statutory provision. In the present case, it is evident that the earlier Government Order dated 1.9.2001 has been amended on the basis of various factors, which have been taken into consideration by the State Government including the letter of the State Project Director dated 4.5.2002 and has proceeded to amend the said Government Order with a view to create congenial and healthy atmosphere in the department. The above amendment also goes to indicate that the State Government in its wisdom thought it proper to give opportunity to new energetic hands. Whether a policy decision can be interfered with by the Court or not, has been succinctly laid down by the apex Court in series of decisions and it has been held that the Courts should be slow to interfere with the policy matters and leave the Government to implement the said policy and to have feed back of the said policy. Trial and implementation of a policy is within the domain of the State Government and the Court cannot substitute its opinion in the matter. The apex Court in series of decisions as indicated below has also come to the same conclusion, which are as under:

Ramchandra Murarilal Bhattad v. State of Maharashtra (2007) 2 SCC 588,

Sanjay Singh and another v. U.P. Public Service Commission, Allahabad and another, (2007) 3 SCC 720,

Ashoka Smokeless Coal India (P) Ltd. v. Union of India, (2007) 2 SCC 640,

Directorate of Film Festivals v. Gaurav Ashwin Jain, (2007) 4 SCC 737,

Indian Airlines Officers' Association v. Indian Airlines Ltd., (2007) 10 SCC 684,

Dhampur Sugar (Kashipur) Ltd. v. State of Uttaranachal, (2007) 8 SCC 418,
Kusumam Hotels (P) Ltd. v. Kerala State Electricity Board, (2008) 13 SCC 213,
V. Sivamurthy v. State of A.P. (2008) 13 SCC 730,
State of U.P. v. Chaudhari Ran Beer Singh, (2008) 5 SCC 550,
Sooraram Pratap Reddy and others v. District Collector, Rangareddy Distt. and
others, (2008) 9 SCC 552,
Basic Education Board, U.P. v. Upendra Rai, (2008) 3 SCC 432,
Delhi Bar Association (Regd.) v. Union of India, (2008) 13 SCC 628,
Jayant Achyut Sathe v. Joseph Bain D" souza, (2008) 13 SCC 547,
Delhi Development Authority v. Joint Action Committee, Allottee of SFS Flats,
(2008) 2 SCC 672.

6. Apart from it, recently similar writ petition bearing no.1083 (S/S) of 2010 has
already been dismissed by Hon"ble Single Judge of this Court on 25.2.2010.

7. Having considered the arguments of the counsel for the petitioners and the
learned Standing Counsel and the law propounded above, I find that the opposite
parties have committed no illegality in issuing the Government Order dated
29.6.2002 and the advertisement.

8. Petition is devoid of merit. It is accordingly dismissed.