

(1987) 09 SC CK 0017

In the Supreme Court Of India

Case No : Civil Appeal No. 775 of 1987

Abdul Mannan

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

Date of Decision : 15-09-1987

Acts Referred:

Constitution of India, 1950 — Article 30

Citation : (1987) 4 JT 23

Hon'ble Judges : B. C. Ray, J;A. N. Sen, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

A.P. Sen, J.—After hearing learned Counsel for the parties at quite some length we find no justification for interference with the judgment of the High Court. It has rightly held that Mahfooz Beg having been promoted as lecturer on June 26, 1975, respondent No. 3 If takhar Ahmad who had been appointed as an art teacher in C.T. grade by reason of his qualification to take high school classes, became entitled to the benefit of G.O. dated October 3, 1974 and thus there was no vacancy in the post of an L.T. grade teacher which could be filled up by resolution of the Managing Committee dated January 14, 1984. The contention of learned Counsel for the appellant based upon Regulation 6(6) of the Regulations framed under the U.P. Intermediate Education Act, 1921 that due to failure of the District Inspector of Schools to communicate his disapproval within the stipulated period of three weeks, it should be deemed that he had given his concurrence to such appointment, can hardly be accepted. Firstly, there being no vacancy in the post of an L.T. grade teacher the Managing Committee obviously could not appoint the appellant to such post. Secondly, there was no question of conveying the disapproval of the District Inspector of Schools to the resolution of the Managing Committee appointing the appellant since the power of appointment of the Managing Committee had in the meanwhile been taken away and vested in the Commission under the provisions of the U.P. Secondary Education Service

Commission & Selection Board Act, 1981 w.e. f. October 27, 1981. It is however urged that Maulana Azad Inter College, Azamgarh having been declared to be a minority institution u/s 16(ff) of the U.P. Intermediate Education Act, 1921, it was not protected under Article 30(1) of the Constitution and was not subject to the provisions of the U.P. Secondary Education Service Commission & Selection Board Act, 1981 which touches upon the right of the minority community to administer and manage the educational institutions. We do not think it necessary for purposes of this appeal to deal with the question. Instead, we direct that the State Government should hereafter accommodate the appellant Abdul Mannan as an L.T. grade teacher and post him as such in any of the schools in the State provided he reports for duty within one month from the date of this order to the District Inspector of Schools, Azamgarh.

2. We wish to clarify that this order shall not affect the status of respondent No. 3 Iftakhar Ahmad or his entitlement to the grade of an L.T. teacher. He shall continue to be an L.T. grade teacher in the Maulana Azad Inter College, Azamgarh.

3. Copy of this order shall be sent to the District Inspector of Schools, Azamgarh for necessary action.

4. The appeal is disposed of accordingly. No costs.