
(2013) 01 AHC CK 0156
In the Allahabad High Court
Case No : Writ Petition No.3777 (S/S) of 2009

Amar Bahadur Singh

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 16-01-2013

Acts Referred:

Citation : (2013) 01 AHC CK 0156

Hon'ble Judges : Surendra Vikram Singh Rathore, J

Final Decision : Dismissed

Judgement

Surendra Vikram Singh Rathore, J.—In compliance of order dated 13.12.2012, District Basic Education Officer, Barabanki is present in Court.

2. Power filed by Shri Rahul Shukla on behalf of opposite parties no.2 and 4, is taken on record.

3. Heard learned counsel for the petitioner and learned counsel for opposite parties and perused the record.

4. The brief facts necessary for disposal of the instant controversy is that the petitioner was appointed on the post of Shiksha Mitra on 5.7.2005 in Primary School Ramapur and on 13.5.2008 her appointment was renewed. On 15.5.2008, he submitted an application for leave to enable him for training under B.Ed. Thereafter after one year on 7.5.2009 he came back after training and asked the Committee to permit him to join on the said post, which was declined by the Committee. Feeling aggrieved the instant writ petition has been filed.

5. The grievance of the petitioner is that he had submitted the application, therefore, there was no fault on behalf of the petitioner. He had proceeded on leave because of B.Ed. Training.

6. Learned counsel for the opposite parties submitted that there is no rule providing long leave to the Shiksha Mitra, as such the same is against the Scheme of Shiksha Mitra. He has placed reliance on the pronouncement of this

Court in the case of Smt. Ramitri Devi Vs. State of U.P. and others decided on 31.5.2011. Court has considered this aspect in detail which is as under:

"The similar controversy was considered by this Court in Writ Petition No.2373 (S/S) of 2009; Devi Prasad vs. District Magistrate/ Chairman District Level Education Committee & others (P.I.L.) and this Court while considering the issue as to whether a Shiksha Mitra can obtain leave for the purpose of higher study or not, pleased to observe that the candidate, who is chosen by the Selection Committee to impart basic education for a period of one year and if within such period leave is granted to any one, the purpose of imparting basic education will be frustrated. The relevant portion of the judgment reads as under:

"The point was restricted with regard to a particular school in the village in question, but upon considering the pros and cons and government orders, we find that as against the honorarium, some of the candidates are being chosen by the Selection Committee to impart basic education for a period of one year. If within such period leave is granted to any one, the purpose of imparting basic education will be frustrated. As a result thereof, we cannot appreciate any stand for obtaining leave with pay or without pay for higher education by any Shiksha Mitra, who has contractually been appointed for a period of one year as against the honorarium. It is correct to say that if a Shiksha Mitra wants to appear in any examination, he can obtain leave for a limited number of days without pay and thereafter join. The public purpose is to be placed over and above the private purpose and following the said logic, the purpose of imparting basic education cannot be allowed to be frustrated in the manner as proposed, therefore, as soon as one leaves without any intimation or with intimation for higher studies, the concerned authority will immediately deploy a new incumbent by way of fresh selection. However, the contract of the candidate, who obtains leave for higher studies, will, under no circumstance, be allowed to be renewed. We hope and trust that the State will follow the import of this order and issue appropriate government order as early as possible."

7. In another matter, this Court in Special Appeal No.116 of 2010; Smt. Dipti Singh vs. State of U.P. & others pleased to observe that a candidate, who is appointed/ engaged under the scheme is required to follow the terms and conditions laid down for the purpose. The scheme did not provide anywhere for grant of study leave and the entire scheme of Shiksha Mitra has been framed with an object to engage local residents for imparting education at the village level and if these local residents are allowed to go on leave for such a long duration, that too for enhancement of their educational qualifications, it would defeat the very purpose of the scheme. The relevant portion of the judgment reads as under:

"Apart from this technicality, the fact remains that the appellant very well knew that she was engaged/appointed under a scheme and that she had to follow the terms and conditions laid down for the purpose. The scheme did not provide anywhere for grant of study leave, rather, the entire scheme of Shiksha Mitra has

been framed with an object to engage local residents for imparting education at the village level and if these local residents are allowed to go on leave for such a long duration, that too for enhancement of their educational qualification, it would defeat the very purpose of the scheme.

The plea of the appellant that the Village Level Committee or its Secretary has granted the leave and, therefore, also her services could not have been terminated, is of no consequence, reason being that the Village Level Committee itself was not competent, what to say of the Secretary, to grant any such study leave and if the Committee has acted in violation of the scheme or against the interest of the scheme, neither any benefit can be given nor any protection can be extended to the appellant for that reason.

Considering this aspect of the matter, the learned Single Judge has observed that the scheme of Shiksha Mitra is for educating the rural children, who are otherwise incompetent and incapable of going outside the village to get some education and that it is a benevolent scheme where only one teacher is appointed to teach the whole number of students available and, therefore, such a leave for enhancement of career, leaves hundreds of students in jeopardy."

In view of the aforesaid facts & circumstances of the case and legal position, this Court comes to the conclusion that even if the Village Level Committee permitted the petitioner to pursue the higher study, she cannot claim joining back after completing her B. Ed. course as the engagement of a Shiksha Mitra is being done for a period of one academic session and of course the extension is subject to satisfactory performance of the candidate. A Shiksha Mitra is required to impart education to the children of rural areas, who are otherwise incompetent and incapable of going outside the village to get some education. Under the scheme only one teacher is appointed to teach the whole number of students available in the area, and therefore, such a leave for enhancement of career, leaves hundreds of students in jeopardy. This Court is of the further view that if any vacancy caused due to whatsoever reason the authorities concerned are bound to make arrangement for teaching of the children. The position has already been settled by the aforesaid judgment. No exception can be carved out in favour of the petitioner"

8. In view of the aforesaid settled legal position, no case for interference under Article 226 of the Constitution of India is made out, as such the writ petition is devoid of merit.

9. Accordingly, the writ petition is dismissed.