
(2013) 02 AHC CK 0288

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 7816 of 2013

Amit Kumar Singh and Others

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 18-02-2013

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2013) 4 ALJ 218 : (2013) 5 AWC 4778

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Advocate : Jagdish Pathak, for the Appellant; A.K. Yadav, for the Respondent

Final Decision : Dismissed

Judgement

Amreshwar Pratap Sahi, J.—Heard learned counsel for the petitioners and the learned standing counsel for the State. The State was called upon to explain the placement of the physically handicapped category candidates according to their merit for the post of Apprentice Teachers under the Government Order dated 5.12.2012.

2. The contention of the petitioners is that the petitioners deserve to be placed in accordance with their merit, as they would be placed higher according to their merit, which right is being defeated on account of they being placed in their respective categories for no justification.

3. Learned counsel for the petitioner has invited the attention of the Court to the various lists including that of Sitapur and Saharanpur to contend that the guidelines that have been issued under the office memorandum dated 3rd February, 2008 are being violated. Learned counsel has referred to Clause-5 and Clause-6 of the said guidelines to contend that the petitioners are being deprived of their merit while being placed merely because they are handicapped.

4. On the basis of the aforesaid facts it is urged that the action of the respondents is violative of Article 14 of the Constitution of India.

5. I have heard Sri C.B. Yadav, learned Additional Advocate General assisted by Sri Upendra Singh, learned Standing Counsel who has produced before the Court a compilation of the judgments and the provisions of the relevant U.P. Act and Ordinances indicating the manner of enforcement of reservation for the physically handicapped categories. Sri Yadav has contended that Section 3(3) of U.P. Act No. 4 of 1993 runs as follows:

(3) The persons selected against the vacancies reserved under sub-section (1) shall be placed in the appropriate categories to which they belong. For example, if a selected person belongs to Scheduled Castes category he will be placed in that quota by making necessary adjustments; if he belongs to Scheduled Tribes category, he will be placed in that quota by making necessary adjustments; if he belongs to Backward Classes category, he will be placed in that quota by making necessary adjustments. Similarly if he belongs to open competition category, he will be placed in that category by making necessary adjustments.

6. He has further invited the attention of the Court to the relevant Government orders and the decisions to explain the same to urge that this reservation is a horizontal reservation and, therefore, according to the provision aforesaid, the candidates belonging to the respective categories will be placed in their own categories with a reservation of the physically handicapped category. Accordingly, he submits that the contention raised on behalf of the petitioner that the placement is in violation of Articles 14 and 16 is erroneous.

7. Having heard learned counsel for the parties and having examined the provisions of 1993 Act as well as decisions aforesaid, the guidelines on which reliance has been placed by the learned counsel for the petitioner as pressed into service through the office memorandum dated 3rd February, 2008 does not in any way run counter to the provisions of the 1993 Act. The Act itself by way of an illustration u/s 3(3) as extracted hereinabove leaves no room for doubt that the candidates of the physically handicapped category have to be placed in the category to which they belong for example General/Open Category, Scheduled Castes, Scheduled Tribes and Other Backward Caste etc. by making necessary adjustments. It is thus clear that seats/posts by way of reservation will be provided to the physically handicapped category candidates in their respective categories. The illustration demonstrated by the learned counsel for the petitioner does not appear to violate the above mandate.

8. The petitioners, therefore, have to be placed in their respective categories and not otherwise. The provisions of the Act being quite clear, there does not appear to be any plausible reason or logic available to issue the writ as prayed in view of the observations made hereinabove. Accordingly, there is no merit in the writ petition, the same is hereby dismissed.