
(2009) 11 AHC CK 0292
In the Allahabad High Court

Anurag Pratap Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 18-11-2009

Acts Referred:

Citation : (2010) 2 AWC 1515

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Amreshwar Pratap Sahi, J.—Heard learned Counsel for the petitioner Sri. D.P. Tripathi and Sri K.K. Tripathi and the learned standing counsel for respondent Nos. 1 to 4.

2. The contention raised is that the petitioner is older in age than the respondent No. 5 and their marks being equal, the petitioner is entitled to be appointed. The B.S.A. has informed the Assistant Basic Shiksha Adhikari, Kanpur Nagar as well as petitioner and the respondent No. 5 that guidelines are awaited from the State Government and till such instructions are made available, it will not be possible to finalise the same in favour of petitioner. The question as to whether the petitioner should be given preference or not is not provided for in the order dated 10.10.2005. There are no other guidelines. The rational for giving preference has to be adjudicated keeping the age prescribed under the Government order. The Government order does not give any preference for any higher education. The merit has to be adjudicated only on the marks in the High School and Intermediate Examination. In such view of the matter withholding of the candidature of the petitioner cannot be justified unless and until there is any rule or any instruction that was prevalent on the date of holding of the selection.

3. Learned standing counsel Sri K.K. Chand has invited the attention of the Government order dated 28.10.2009 where this position has already been clarified in relation to the query raised in this writ petition which is follows:

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y[ku? fnukad 28 vDVwcj] 2009 fo"k;& f"kk{kk fe= ds p;u ds laca/k esa A egksn;]

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To issue a writ order or direction in the nature of mandamus commanding the respondent No. 1 to issue guidelines within specific period directing the respondent Nos. 2 to 4 releasing to Government order of Shiksha Mitra regarding the selection if 2 candidates got equal marks, within specific period as may be fixed by this Hon"ble Court.

mDr ds laca/k esa eq>s ;g dgus dk funsZ"k gqvK gS fd ;fn nks f"kk{kkfe=kas ds leku vad gS] rks ml vH;FkhZ dk p;u fd;k tk;sxk tks vis{kkd`r vf/kd vk;q dk gksxk A d`i;k rnuqlkj vko;"d dk;Zokgh djus dk d"V djsa A Hkonh; ?bUnzjkt flag? vuqlfpo A

la[;k o fnukad rnS; izfrfyfi fuEufyf[kr dks lwpukFkZ ,oa vko;"d dk;Zokgh gsrq izsf"kr% 1- f"kk{kk funs"kd ?csfld?] m0iz0 y[ku? A 2- eq[; LFkk;h vf/koDrk] ek0 mPp U;k;ky;] bykgkckn A 3- ftyk csfld f"kk{kk vf/kdkjh] dkuiqj uxj A 4- xkMZ Qkby vkKk ls ?bUnzjkt flag? vuqlfpo A

4. Accordingly, the writ petition is disposed of with a direction to the respondent No. 4 to proceed to pass a final order as expeditiously as possible, preferably within period of six weeks from the date of presentation of a certified copy of this order before him.

With the aforesaid direction this writ petition is disposed of.