

(2009) 05 AHC CK 0679
In the Allahabad High Court

Ashok Kumar Singh

APPELLANT

Vs

State of U.P.& Anr.

RESPONDENT

Date of Decision : 08-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0679

Hon'ble Judges : Chandramauli Kumar Prasad, CJ and Dilip Gupta, J

Final Decision : Dismissed

Judgement

Dilip Gupta, J.

Writ petitionerappellant, aggrieved by judgment and order dated 01.04.2009 passed by a learned Judge in Civil Misc. Writ Petition No. 17727 of 2009, has preferred this special appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952.

Short facts giving rise to the present appeal are that the writ petitionerappellant (hereinafter referred to as the ""appellant") is a Head Master of Primary School Konhia, Block Ratanpura in district Mau. The District Basic Education Officer, Mau made surprise inspection of the school on 20.02.2009 and found the school closed. He was further informed by villagers that the appellant ordinarily remains absent from the school. Being prima facie satisfied, the District Basic Education Officer by order dated 21.02.2009 put him under suspension. Appellant challenged the said order in the writ petition, which has given rise to the impugned order.

It was contended before the learned Judge that, in fact, the school was open on the said date. The said submission did not find favour with the learned Judge and he observed that truthfulness or otherwise of the same is a matter of enquiry. In this connection, the learned observed as under:

"It is contended that in fact the school was open but this fact cannot be considered by this Court, as the evidence has to be examined by the Enquiry Officer. Charges against the petitioner are extremely serious and once proved,

the services of the petitioner can be dispensed with. There is no dispute that the author of the order is within its jurisdiction to pass the impugned order."

Mr. Mani Kant Srivastava, appearing on behalf of the appellant, reiterates the same submissions, which have been advanced before the learned Judge.

We are of the opinion that truthfulness or otherwise of the allegation as to whether the school was closed on the date of surprise inspection and the petitioner was absent on the said date, is a subject matter of enquiry and the present proceedings are not appropriate proceedings to go into that.

The appeal is absolutely misconceived and is dismissed with cost of Rs. 1,000/ to be paid by the appellant to the Allahabad High Court Legal Service Committee.