
(2010) 04 AHC CK 0054
In the Allahabad High Court
Case No : Special Appeal No. 1972 of 2009

Dilip Kumar Gupta

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 22-04-2010

Acts Referred:

Citation : (2010) 4 AWC 4303 : (2010) 126 FLR 878 : (2010) 2 UPLBEC 1654

Hon'ble Judges : R.K. Agrawal, J; Jayashree Tiwari, J

Bench : Division Bench

Judgement

R.K. Agrawal and Jayashree Tiwari, JJ.—The present special appeal has been filed against the judgment and order dated 12.11.2009, passed by the learned single Judge, whereby the writ petition preferred by the appellant had been dismissed.

2. Before the learned single Judge, the case set up by the appellant was that the respondent No. 5 got appointment as Shiksha Mitra claiming preference of being handicapped person and on the other hand she is not a handicapped person. Vide order dated 22.12.2009, the Court had passed the following orders:

It is the assertion of the writ petitioner that respondent No. 5 is not a handicapped person and the certificate obtained by her that she is a handicapped to the extent of 45% is forged.

On the writ petitioner depositing a sum of Rs. 25,000 (Twenty five thousand only) by 4.1.2010 in the Registry of the Court, let respondent No. 5, Smt. Rinku Devi be examined by the Chief Medical Officer, Deoria. The Chief Medical Officer may take assistance of any other medical officer for her examination. The Chief Medical Officer, shall proceed to examine respondent No. 5 only when the writ petitioner produces before him the receipt showing deposit of the aforesaid amount in the Registry of this Court. The Chief Medical Officer, shall submit his report by 11.1.2010 to this Court in sealed cover.

In case, respondent No. 5. is held to be a handicapped person, the amount

deposited by the writ petitioner, shall be forfeited.

3. The respondent No. 5 was examined by the Medical Board on 16.1.2010 and even though the Board was of the opinion that there is some deficiency in the right leg of the respondent No. 5, as a result of which, she walks with limp but the deficiency is not such which can qualify for issuance of a handicapped certificate. That being the position in our considered opinion the appointment of the respondent No. 5, as Shiksha Mitra under the handicapped person was not justified. The special appeal succeeds and is allowed. The appointment of the respondent No. 5 is hereby set aside. Rs. 25,000 deposited by the appellant under the order of the High Court be refunded to the appellant.