

(1993) 04 AHC CK 0010

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 13826 of 1993

Dr. Bhola Ram Sharma

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

Date of Decision : 10-04-1993

Acts Referred:

Citation : (1993) 3 AWC 1340 : (1993) 2 UPLBEC 1495

Hon'ble Judges : Ravi S. Dhavan, J

Bench : Single Bench

Advocate : Ashok khare, for the Appellant;

Final Decision : Dismissed

Judgement

Ravi S. Dhavan, J.—On the presentation of this writ petition fortunately or unfortunately the pleadings have been exchanged by the rival contenders. A counter affidavit has been filed along with an application seeking impleadment is the writ petition, which is permitted to Dayanand Tyagi (now Respondent No. 4) who claims himself to be the seniormost teacher at the (sic)lastitotion Sanatan Dharm Inter College, Meerapur, District Muzaffarnagar.

2. In the petition, the issue is that the management of the aforesaid institution by its order of 8 March, 1993 (Annexure 6 to the writ petition) intimated the Petitioner that he will not henceforth function as the officiating Principal. Thus, the only issue in the petition is on who ought to be the officiating Principal.

3. The facts op which there is no issue are that the Petitioner is not the seniormost teacher and the permanent Principal in facing disciplinary proceedings and suspended, implying thereby that a temporary vacancy has arisen on a post of a principal and this vacancy has to be filled up.

4. The Petitioner relies on an assertion that in so far as the District Inspector of Schools. Muzaffarnagar is concerned, as a matter of record, had by an order dated 6 March, 1993 (Annexure-4a to the writ petition) appointed the Petitioner

as incharge as Centre Superintendent of the Collage for conducting the High School and Intermediate Examinations, 1993 prescribed by the U.P. Board of High School and Intermediate Education. This order was subsequently recalled by the District Inspector of Schools, Muzaffarnagar on 9 March, 1993.

5. Encouraged by the situation that he had been made Centre Superintendent and forgetting that he was not the seniormost teacher, the Petitioner claims the post of an officiating Principal. No sooner the District Inspector of Schools had appointed the Petitioner as the Centre Superintendent, the management by an order of 8 March, 1993, recalled the status conferred on the Petitioner as an officiating Principal. The facts are net complete in the petition but are available to the Court from the counter affidavit (sic) tied on behalf of the seniormost teacher Respondent No. 4, Dayanand Tyagi. It is accepted at the Bar that Dayanand Tyagi is the seniormost teacher and that the Petitioner is not the seniormost teacher.

6. An issue is being attempted to be raised that the management cannot interfere in the appointment of the Petitioner continuing as an officiating Principal. Following submission is also a contention that seniority is not the sole criteria. These are not the issues in the petition.

7. Unfortunately, the petition did not place correct facts and these are available from the counter affidavit. Respondent No. 4 had been given an order of approval by the District inspector of Schools to set as the officiating Principal. The order is dated 9 March, 1993 (Annexure-CA 3 to the counter affidavit). The submission on behalf of the Petitioner is that this order of the District Inspector of Schools is merely a direction to give due regard to the seniority list and appoint the seniormost teacher as the officiating Principal.

8. Be that as it may, this Court is of the view that the purpose of filing the petition is over. The Petitioner had his opportunity regular or irregular, as he himself contends to act as the Centre Superintendent of the examination centre an record. There is also a similar order of the District Inspector of Schools in the name of another teacher (Annexure-8A 5 to the counter affidavit), after canceling the charge of the Petitioner as the Centre Superintendent of the examination centre. The other submission on behalf of the Petitioner is that there are allegations against the seniormost teacher, the Respondent No. 4. But, it is accepted that these allegations have not seen the light of day or, for that matter, disciplinary proceedings followed by an order of suspension. Thus, the Court, in the circumstances,(sic) cannot take notice of these allegations. Further, the assertion of the Petitioner that he was made the officiating Principal as the others had declined is a self negating plea. This in itself implies that the Petitioner is not the seniormost teacher. Respondent No. 4 says that he never at any stage declined the offer to act as the officiating Principal. His contention is that he is available. The Petitioner, thus, has made mis-statement of facts and has not been fair and correct in his pleadings.

9. To the extent that the Respondent No. 4 is the seniormost teacher and there is

an order of the District Inspector of Schools that recognition under the Law can only be given to the seniormost teacher, which, Respondent No. 4. Dayanand Tyagi is (reference Annexure-CA-3 to the counter affidavit). In the order dated 9-3-1993, passed by the District Inspector of Schools, no irregularity has been committed in my case a seniority list of teachers is to be maintained by an institution and it cannot be avoided as it is an obligation of the law to adhere to it under Chapter-II, Sub-clause (3) of regulations framed under the U.P. intermediate Education Act.

10. Beyond this, this Court ought not to comment as once the Court has satisfied that the Petitioner is not the seniormost teacher and has made incorrect statements he does not have the locus standi to make a claim on the basis of seniority which he does not have.

11. This is an ill advised petition and its dismissed at the admission stage, but as pleadings have been exchanged, with costs.