
(2011) 07 UK CK 0149
In the Uttarakhand High Court
Case No : Special Appeal No. 172 of 2006

Dr. Madhusudan Dutt

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 12-07-2011

Acts Referred:

Citation : (2011) 07 UK CK 0149

Hon'ble Judges : Barin Ghosh, C.J.;Serves Kumar Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Barin Ghosh, C.J.—In the writ petition, filed by the senior most teacher of Hindu National Inter College, Dehradun, it was contended that the transfer of Appellant, effected by the Director of Education, from R.N. Bhargawa Inter College, Mussoorie to Hindu National Inter College, Dehradun, was illegal, inasmuch as, at the relevant time, R.N. Bhargawa Inter College, Mussoorie had no Committee of Management, and that the authorized controller, appointed in absence of the Committee of Management, to run the said College, was incompetent to give consent for the transfer of Appellant. The principal contention of the writ Petitioner was that since the Committee of Management of R.N. Bhargawa Inter College, Mussoorie was required to give consent for the transfer of Appellant from R.N. Bhargawa Inter College and since the said College, at the relevant time, had no Committee of Management, there was no consent of the Committee of Management of R.N. Bhargawa Inter College, and as such, the transfer of the Appellant was not sustainable in law. It was contended that since the Rules required consent to be given by the Committee of Management, consent given by the authorized controller of R.N. Bhargawa Inter College, Mussoorie was of no consequence.

2. Merely, by looking into the Rules and finding that the Rules contemplate consent of the Management and coming to the conclusion that the Management, referred to in the Rules, refers to Committee of Management, by the judgment

and order under appeal, the order of transfer of the Appellant has been set aside.

3. We are of the view that the Rules, relied in the judgment and order under appeal, refers to Management. It is true that Prabandh Sanchalak is appointed for the purpose of holding election, but at the same time, it is also true that until such time the election is held, the Management of the Institution vests in Prabandh Sanchalak. It is not comprehensible that an institution can function without there being someone responsible to manage the same. Be that as it may, in the event, the said transfer was a bad transfer in view of non-availability of consent from the Committee of Management, it was open to the members, who were to constitute the Committee of Management to question the validity of grant of consent by the authorized controller, but not by the writ Petitioner-Respondent, who had no connection whatsoever with the said Committee of Management. The said transfer order, in no way, effected the writ Petitioner-Respondent. The writ Petitioner-Respondent was not entitled to hold the post of Principal of Hindu National Inter College, Dehradun. In the absence of principal of the said College, the Respondent-Petitioner could only be appointed as In-charge Principal of the said College. When the vacancy in the post of the Principal of the said College was supplied by the Director of Education, thereby no right, farless any actionable right of the Respondent/writ Petitioner was effected, which could be challenged or questioned in the writ jurisdiction. The writ petition, by the Respondent-writ Petitioner was absolutely meritless and should have been dismissed at the threshold on the ground of locus stand alone. Holding that the writ petition was meritless, we are of the view that the order, as passed, could not be passed on the writ petition. We, accordingly, set aside the judgment and order under appeal and thereby allow the appeal. We, at the same time, dismiss the writ petition with cost of Rs. 5,000/-.