

(2011) 02 AHC CK 0025

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 61181 of 2008

Dr. Pashupati Nath Upadhyay

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 18-02-2011

Acts Referred:

Citation : (2011) 4 ADJ 196 : (2011) 2 UPLBEC 1215

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Supplementary affidavit filed today is taken on record.

2. Heard counsel for the Petitioner, learned Standing Counsel and Shri Vinod Kumar Agrawal, Advocate appearing for Respondent No. 5

3. Petitioner before this Court seeks quashing of the order dated 4/5.11.2008 as well as order dated 19.11.2008 (Annexure Nos. 23 and 29 to the present writ petition).

4. Facts in short giving rise to the present writ petition are as follows:

5. Petitioner before this Court was admitted as a regular student in two years Graduate degree course at Sri Varseney Inter College, Aligarh which at the relevant time was affiliated to Dr. Bheem Rao Ambedkar, University, Agra. It is not in dispute that the result of the B.A. Final Examination of the Petitioner held in the year 1969, was not declared as he was found involved in mass copying. According to the Petitioner, he appeared in the next year Examination of B.A. Part-II i.e. in the year 1970 and he was declared successful. According to the Petitioner he was thereafter admitted to the M.A. (English) course of the said University and he cleared the same in the year 1972.

6. According to the Petitioner, he was appointed as Lecturer (English) in Aligarh Inter College Kaimthal (Aligarh) on 8.7.1972 and while working as Lecturer in the

said institution, he was granted permission by the Committee of Management to be admitted as Teacher candidate in Aligarh Muslim University for M.A. two years degree course. It is then stated that the Petitioner during summer vacation completed B. Ed training course from Rajasthan University, Jaipur as teacher candidate with the permission of the Committee of Management in the year 1981-82 which according to the Petitioner is a correspondence course. The Petitioner is stated to have been enrolled for Ph.D and to have been awarded Ph.D in year 1983 by the Aligarh Muslim University in the subject of Hindi. During this period, the Petitioner is further stated to have passed his M. Ed. Examination from Shimla (Himachal University) through correspondence with due permission of the Committee of Management to be precise in July 1986. The Petitioner is also stated to have obtained a degree of M.A. (Sanskrit) in the year 1986 from Aligarh Muslim University, after being admitted to the course in the year 1984.

7. The Petitioner in response to as advertisement published by U.P. Secondary Education Services Selection Board (hereinafter referred to as Board) being Advertisement No. 1/1998 applied for the post of Principal of recognized Intermediate College. He was selected for the post as per the Select Panel notified by the Selection Board on 2.11.1989. The Petitioner was actually appointed as Principal only on 25.2.2000 in P.B.A.S Inter College Hathras.

8. A complaint was made by the ex-manager of the institution that the Petitioner has suppressed his involvement in mass copying and to have filed forged documents for his selection. The Board taking cognizance of the said complaint and issued notice to the Petitioner calling upon him to appear before the Board on 11.7.2008. The Petitioner filed Writ Petition No. 28676 of 2000 challenging the notice which was dismissed. The Petitioner had no other option but to respond to the notice. The reply submitted by the Petitioner was considered by the Board and ultimately the impugned order has been passed permitting the Committee of Management to get the degree of M Ed of the Petitioner verified and if it is cancelled, his merit position in the Select Panel would be adversely affected.

9. On receipt of the order of the Board, the Committee of Management has decided to place the Petitioner under suspension pending enquiry into correctness or otherwise of the degrees vide order dated 19.11.2008.

10. It is against these two orders that the present writ petition has been filed.

11. At the very outset, it may be recorded that the issue of suspension has lost all its efficacy inasmuch as the Petitioner has retired from service.

12. The issue which remains to be examined is as to whether there should be verification of the degrees which have been obtained by the Petitioner from various universities, as noted here-in-above or not.

13. From the original application forms submitted by the Petitioner before the Board which has been produced before the Court it is apparent that the Petitioner

had specifically stated against point No 3 under the heading of Note as follows

14. The Commission under the impugned order has found that the result of the Petitioner in respect of the B.A. Part-II Examination in the year 1969 conducted by Agra University was not declared because of his involvement in mass copying and the Petitioner did not challenge the said order. As a matter of fact, he accepted the order of the University, as he appeared in the next year examination of B.A. final i.e. in 1970 without protest. It is therefore recorded that the Petitioner was punished on the charge of copying in respect of B.A. Part-II Examination. The declaration against point No. 3 as noticed above was false. The Board should have cancelled the Petitioner's candidature for such false declaration. But despite noticing the said facts the Board only directed the Committee of Management to get the degrees of the Petitioner verified and to take action thereon.

15. A person to be appointed as Principal of an Intermediate College must be above board. If a person is found involved in mass copying and his result is withheld by the concerned University then such person can never be a good Principal who can import values of life to his students which is the basic purpose of education. This Court records that not only the selection of the Petitioner was liable to be cancelled, he was also liable to be proceeded for filing a false declaration and succeeding in getting illegal appointment.

16. Reference may also be made to the documents brought on record as Annexure CA-1 to the counter-affidavit filed by the Committee of Management wherein there is an endorsement of the Officials of the University to the effect that the result of the Petitioner of B.A-II Examination of the year 1969 was withheld for use of unfair means.

17. The matter is left at this stage with liberty to the Committee of Management to take appropriate action in the matter after getting the various degrees of the Petitioner verified.

18. The order of the Board impugned in the writ petition records that the Petitioner had obtained migration certificate from the University of Agra on 18.2.1981. He was admitted to the Rajasthan University from where he obtained migration certificate on 16.10.1985 and it is stated to have been admitted to Rajasthan University on the strength of the said migration certificate in the year 1986. This Court made a pointed query as to how the Petitioner can be admitted to an University without depositing the migration certificate granted by the earlier University.

19. With the help of supplementary affidavit filed by the Petitioner an attempt was made alleging that the Petitioner was not asked by the Aligarh Muslim University to deposit the migration certificate in the year 1979 or in respect of his admission to M.A (Sanskrit) Course in 1984. It is apparently clear that the Petitioner got himself admitted to the M. Ed. course from Shimla (Himachal University) in 1986 on the strength of migration certificate obtained from the

University of Rajasthan when admittedly in between he was enrolled as a student to the Ph.D course as well as M.A (Sanskrit) Degree Course at Aligarh Muslim University. It is to be examined as to whether the Petitioner had mislead the authorities for the purpose of getting admission to M. Ed. course or not and the Board has rightly permitted the Committee of Management to get the aforesaid aspect of the matter enquired from the University concerned and to take appropriate action. There is no illegality in the order impugned.

20. Writ petition lacks merit and is accordingly dismissed.

21. It is not necessary to implead Radhey Shyam Varseney as a party.