
(2002) 11 AHC CK 0106
In the Allahabad High Court
Case No : C.M.W.P. No. 33858 of 2002

Dr. P.N. Sharma

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 21-11-2002

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2003) 1 AWC 453

Hon'ble Judges : N.K. Mehrotra, J;G.P. Mathur, J

Bench : Division Bench

Advocate : U.N. Sharma and Chandan Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

G.P. Mathur, J.—This writ petition under Article 226 of the Constitution has been filed for quashing of Sub-clauses (3) and (4) of clause 3 of Government order dated 19.11.1999, which imposes a restriction upon the teachers of degree colleges to teach post-graduate classes. A further prayer has been made that a writ of mandamus be issued commanding the respondents to permit all such teachers who are duly qualified to teach post-graduate classes.

2. It is averred in the writ petition that the petitioner is reader in Department of Political Science in B. B. Degree College, Kosikalan, district Mathura, which is an aided institution. The State Government issued a Government order on 11.11.1997, laying down the teaching norms and fee structure for institutions providing higher education in Self Financing Scheme. Another Government order was issued on 19.11.1999, whereby degree colleges receiving grant-in-aid were permitted to start post-graduate classes in the evening under Self Financing Scheme. This Government order provided that teaching work in such post-graduate classes which had been started under the Self Financing Scheme should not be taken from those teachers who are teaching under-graduate classes and are getting salary under grant-in-aid provided by the State Government. The petitioner feels aggrieved by this condition in the Government order and has

prayed for quashing of the same.

3. Sri U.N. Sharma has submitted that the petitioner had done M.A. in 1972 and Ph.D. in 1976 and since 1972, he has been continuously teaching and has acquired very good experience. Therefore, there is no justification for debarring the petitioner from doing teaching work in post-graduate classes and the impugned clause in the Government order is wholly arbitrary and contrary to law.

4. We have given our careful consideration to the submission made by the learned counsel for the petitioner. The Government order dated 11.11.1997, has been issued fixing the norms for starting courses under the Self Financing Scheme. The order itself mentions that the same has been issued on the basis of recommendation made by a committee headed by the Vice-Chancellor, Rohelkhand University. The subject-matter of the second Government order dated 19.11.1999, is fee structure regarding courses started under the Self Financing Schemes wherein the State Government does not provide any kind of financial assistance. The object of the scheme appears to be that the courses started by the management under the Self Financing Scheme should be distinct and separate from the teaching being imparted in the aided institutions wherein grant-in-aid is provided by the State Government and the salary of the teaching and other staff is also paid by the State Government. A teacher engaged for teaching courses in the Self Financing Scheme will be paid salary by the management out of its own resources, namely, from the fee realised from the students and other income of the management. If a teacher who is already on the staff of the college and is receiving salary from the State Government for teaching under-graduate classes is allowed to teach in post-graduate classes under the Self Financing Scheme, he will certainly be paid remuneration from the management for this additional work. A teacher receiving salary from the State Government is a full time teacher and is not legally entitled to carry on any other work. The clause in the Government order seeks to prohibit a teacher receiving salary from the State Government to carry on another engagement and thereby earn some additional income. When the State Government has permitted the management to start courses under the Self Financing Scheme, its object is to keep such teaching as a distinct entity and they should not be mixed up with the regular teaching being imparted in the institution which is under grant-in-aid and for which the teachers are paid salary by the State Government. The Government order, in fact, is for the benefit of those teachers who are getting salary from the State Government for teaching under-graduate classes and is for their protection. An unscrupulous management could have forced such teachers to teach post-graduate classes which had been started under the Self Financing Scheme without making any payment to them though they would have realised heavy amount from the students. The teachers being under the employment of the management would have been rendered in a helpless situation.

5. We are also of the opinion that the Government order is a matter of policy laid down by the State Government and it is not open for the Court to review the

same unless it violates any constitutional provision. Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others, and State of Andhra Pradesh and Another Vs. V. Sadanandam and Others, Learned counsel has not made any such submission that the Government order is violative of any provision of Constitution.

6. For the reasons mentioned above, we find no merit in the writ petition, which is hereby dismissed summarily at the admission stage.