
(2002) 05 AHC CK 0054
In the Allahabad High Court
Case No : C.M.W.P. No. 19458 of 2002

Dr. S.K. Rathi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 13-05-2002

Acts Referred:

Uttar Pradesh Higher Education Services Commission Act, 1980 — Section 2
Uttar Pradesh State Universities Act, 1973 — Section 2(18)

Citation : (2002) 3 AWC 1906 : (2002) 94 FLR 668 : (2002) 3 UPLBEC 2193

Hon'ble Judges : Rakesh Tiwari, J;M. Katju, J

Bench : Division Bench

Advocate : Yogesh Agarwal, for the Appellant; Alok Sharma and M.K. Gupta, S.C., for the Respondent

Final Decision : Dismissed

Judgement

M. Katju and Rakesh Tiwari, JJ.—Heard Sri Yogesh Agarwal, learned counsel for the petitioner and the learned standing counsel. Sri Alok Sharma has appeared for respondent No. 3 and Sri M. K. Gupta appeared for respondent No. 4.

2. The question involved in this case is whether the selection for the post of Principal of a Degree College in U. P. is to be made by the U. P. Higher Education Services Commission or by the University to which the Degree College is affiliated,

3. The learned counsel for the petitioner has referred to a decision in S. K. Rathi v. Prem Hari Sharma and Ors. 2000 (4) AWC 2713 : JT 2000 (8) SC 267 and on the basis of that decision, he has submitted that a Principal cannot be selected by the U. P. Higher Education Service Commission.

4. We do not agree with the contention of the learned counsel for the petitioner. The decision in S. K. Rathi v. Prem Hari Sharma (supra) does not apply to the facts of the present case. The Supreme Court held in that case that an acting Principal cannot continue as acting Principal after he completes the age of 60

years, but can only continue as a teacher till 30th June.

5. The question in the present case is totally different. The question is as to which provision has to be applied for making selection for the post of Principal. Under the U. P. Higher Education Services Commission Act, 1980, the word "teacher" has not been defined, but Section. 2 (g) of the Act states that words not defined in the Act will have the same meaning as in the U. P. State Universities Act. u/s 2 (18) of the U. P. State Universities Act, the definition of teacher includes Principal also. Since the word "teacher" includes a Principal, hence the Higher Education Services Commission has also to do the selection for the post of Principals in the Degree Colleges.

6. In the instant case the petitioner is only an acting Principal and has no right to continue as Principal, particularly when a regularly selected candidate is available.

7. The petition fails and is, accordingly, dismissed.