
(2011) 05 AHC CK 0075

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 64023 of 2005

Dr. Sunil Dutt Sharma

APPELLANT

Vs

Director of Education (Higher) and Others

RESPONDENT

Date of Decision : 20-05-2011

Acts Referred:

Uttar Pradesh Higher Education Services Commission Act, 1980 — Section 13, 13(3), 3

Citation : (2011) 05 AHC CK 0075

Hon'ble Judges : Sunil Ambwani, J; Dilip Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The Petitioner has sought the quashing of the order dated 6th August, 2005 passed by the Director of Education (Higher Education), Allahabad (hereinafter referred to as the "Director") by which, pursuant to the order dated 29th July, 2005 issued by the State Government, the Manager of Jai Narain Degree College, Lucknow has been directed to cancel the appointment of the Petitioner as Principal of the said College consequent to the cancellation of the placement of the Petitioner in the said College by the Director.

2. The Director, after having received the list of selected candidates from the Higher Services Commission (hereinafter referred to as the "Commission") established u/s 3 of the Uttar Pradesh Higher Education Services Commission Act, 1980 (hereinafter referred to as the "Act"), initially issued the placement orders dated 8th March, 2003 and 8th September, 2003 but subsequently issued a fresh order dated 5th December, 2003 for placement of the Petitioner as Principal in the Jai Narain Degree College, Lucknow u/s 13(3) of the Act. The management of the College consequently issued appointment order in favour of the Petitioner. This placement order was cancelled by the Director.

3. We have considered the issues raised in this petition in the judgment delivered by us today in Writ Petition No. 60844 of 2005 (Dr. Satya Pandey v. Director of

Education (Higher), U.P. Allahabad and Ors.). We, therefore, propose to state only the essential facts relating to the issuance of the placement order of the Petitioner by the Director as other facts have been stated in detail in the aforesaid judgment.

4. Advertisement No. 25 of 1998 was issued by the Commission on 13th August, 1998 for filling up posts of Principals for male and female Post Graduate Colleges and Degree Colleges. The Petitioner applied pursuant to the aforesaid Advertisement and gave the following preferences for being appointed as Principal in a Degree College:

- i) Chinmaya Degree College, Ranipur, Haridwar
- ii) KL DAV College Roorkee, Haridwar
- iii) Saligram Sharma Mahavidyalaya, Rasna District Meerut
- iv) MM Degree College, Khekhda, District Baghpat

5. The Petitioner was placed at Serial No. 11 in the list dated 18th April, 2001 of General Category candidates sent by the Commission to the Director containing names of Principals of Degree Colleges.

6. The Director issued the placement order dated 8th March, 2003 for appointment of the Petitioner on the post of Principal in Jagdish Prasad Degree College, Kairana, Muzaffarnagar. The Petitioner did not join the said College. Thereafter, the Director issued another placement order dated 8th September, 2003 for appointment as Principal in Mihirbhoj Mahavidyalaya, Dadri Gautam Budh Nagar but the Petitioner again did not join the said College. The aforesaid order was, however, cancelled by the Director by the order dated 5th December, 2003 and a fresh placement order dated 5th December, 2003 was issued by the Director for appointment of the Petitioner as Principal in the Jai Narain Degree College, Lucknow. The Committee of Management of the College issued the appointment letter dated 5th December, 2003 to the Petitioner who joined the College on 8th December, 2003.

7. In the meantime, as complaints about large scale irregularities in the placement/appointments of Principals by the Director were received, the State Government conducted an enquiry through the District Magistrate, Allahabad. It was found in the enquiry that many persons were appointed as Principals of the Degree Colleges/Post Graduate Colleges against the provisions of the Act as well as against the decision of the Supreme Court in Kamlesh Kumar Sharma Vs. Yogesh Kumar Gupta and others, The State Government, therefore, by the order dated 29th July, 2005 issued directions to the Director to cancel such placement orders. Accordingly, the Director by the order dated 6th August, 2005 cancelled the placement order dated 5th December, 2003 of the Petitioner and also issued directions to the Committee of Management of Jai Narain Degree College to cancel the appointment of the Petitioner. It is this order that has been impugned in the present petition.

8. On 4th October, 2005, while entertaining the writ petition, the Court ordered that till further orders of the Court, the impugned order dated 6th August, 2005 shall be kept in abeyance.

9. A counter affidavit has been filed in which it has been stated that the post of Principal in Jai Narain Degree College, Lucknow was not advertised in Advertisement No. 25 of 1998 and infact it was subsequently advertised in Advertisement No. 36 of 1998. It is, therefore, stated that the appointment of the Petitioner was void, being against the provision of Section 13 of the Act and also against the decision of the Supreme Court in Kamlesh Kumar Sharma (supra).

10. Learned Counsel for the Petitioner has raised the same submissions as were raised in Dr. Satya Pandey (supra).

11. We have examined the issues raised by learned Counsel for the Petitioner in detail in the judgment and order of date rendered in Dr. Satya Pandey (supra) and have rejected them.

12. Thus, for the reasons stated in the judgment delivered by us today in Dr. Satya Pandey (supra), the Petitioner is not entitled to any relief and the writ petition deserves to be dismissed.

13. The writ petition is, accordingly, dismissed.