

(2011) 09 AHC CK 0521
In the Allahabad High Court
Case No : Writ A. No. 54654 of 2011

Dr. Vibha Mishra

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 22-09-2011

Acts Referred:

Citation : (2011) 09 AHC CK 0521

Hon'ble Judges : Vineet Saran, J; Ran Vijai Singh, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Heard Ms. Arti Raje, Learned Counsel for the Petitioner and the learned Standing Counsel appearing for the State-Respondents.

2. The Petitioner appears to be aggrieved by the impugned order dated 14.9.2011 passed by the Director, Higher Education, U.P. Allahabad by which the Petitioner's representation for approval of her services has been rejected on the ground that the Government Order dated 7.4.1998, on the strength of which the appointment of the Petitioner was made, has now been repealed. It is contended by the Learned Counsel for the Petitioner that the Petitioner's appointment was made after due advertisement for the session 2007-08 and papers with regard to the grant of approval were sent before the Director, Higher Education, U.P. Allahabad, Respondent No. 2, but the Respondent No. 2 has not taken any decision thereon and thereafter the Committee of Management permitted the Petitioner to continue on the aforesaid post and the Petitioner is still continuing. Learned Counsel for the Petitioner has also drawn our attention towards the decision of this Court dated 10.8.2011 passed in Civil Misc. Writ Petition No. 27460 of 2010 Dr. Smt. Vibha Jain v. State of Uttar Pradesh. whereby this Court has held that the ground of imposing ban on appointment vide Government Order dated 12.12.2006 for not approving the services of the Petitioner in the said case and other similarly situated persons is unsustainable. So far as the repeal of the Government Order dated 7.4.1998 is concerned, in that regard also

the Court has observed that as the Respondents are permitting to continue all those appointees who have been appointed on the strength of the Government Order dated 7.4.1998, therefore, the Government cannot take different stand for the present Petitioner.

3. In the submission of the Learned Counsel for the Petitioner the facts of this case are identical to the facts of the case in Civil Misc. Writ Petition No. 27460 of 2010 Dr. Smt. Vibha Jain v. State of U.P.

4. On 20.9.2011 learned Standing Counsel was granted time to seek instructions in this regard. In the instructions which the learned Standing Counsel has received the same ground has been reiterated i.e. the imposition of ban vide Government Order dated 12.12.2006 and the repeal of the earlier Government Order dated 7.4.1998 on the strength of which the appointment of the present Petitioner has been made.

5. Since we have already allowed the earlier writ petition (Civil Misc. Writ Petition No. 27460 of 2010 Dr. Smt. Vibha Jain v. State of U.P. and Ors.), therefore, this writ petition is also allowed in terms of the judgment and Order passed by this Court in the case of Dr. Smt. Vibha Jain supra. The impugned order dated 14.9.2011 is quashed. The Respondents are directed to consider the question of approval of Petitioner's appointment in accordance with the Government Order applicable on the date of appointment in question within a period of two months from the date of production of a certified copy of this order before the Respondent No. 2.