
(2006) 09 AHC CK 0245
In the Allahabad High Court

Dr. Vinod Shukla

APPELLANT

Vs

The State of U.P. and Others

RESPONDENT

Date of Decision : 12-09-2006

Acts Referred:

Citation : (2006) 7 AWC 7579 : (2006) 111 FLR 795

Hon'ble Judges : V.C. Misra, J; Amitava Lala, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Amitava Lala, J.—The writ petitioner has challenged the Annexure-13 being an order passed by the Secretary of the Institution allowing Dr. D.N. Singh, the respondent No. 5 to continue as Principal of the College until further orders.

2. Admittedly, according to the petitioner the continuation of officiation would be restricted for a period of three months as per first statute 10.20 of the Purvanchal University. Such statute is still existing. The petitioner has filed the writ petition saying that he is continuing on the post as officiating Principal from the year 2002 and only when he obtained a leave of 40 days, Sri D.N. Singh—respondent No. 5 was appointed as officiating Principal. Therefore, when he joined back on 25th August 2006, such date will be treated to be a cut off date for inclusion of the petitioner on the post of officiating Principal in the place and instead of respondent No. 5.

3. It appears to this Court that the post of the Principal is vacant for a considerable period, i.e., from the year 2002 itself.

4. The grievance of the petitioner is that the order which has been passed on 28th August 2006 is of Secretary and not by the Committee of Management of the College. The Secretary is not competent to pass the order. However, in the order impugned, we find that the matter was directed to rectify in the next meeting of the Committee of Management.

5. Learned Counsel appearing for the petitioner relied upon the annexures to the rejoinder affidavit. He has shown many parts of the power of the Managing Committee. However, from the paragraph 29 (j) and (k) of the Statute being powers of Secretary of the College, are reproduced below:

29(j) To grant leave to the employees of the college according to rules and to appoint substitutes and to make resultant arrangements or recommendations of the Principals of the College.

(k) To issue letters of appointment, suspension and/or termination notice/show cause notices and punishment orders, as per , decisions of the Committee for appointments and/or the Managing Committee.

6. According to us instead of going into detail of such fact, we have to take a decision as regards the officiation of an officiating Principal. In recent days, in view of the several Judgments that during the period of officiation one will be entitled to emoluments similar to a regular Principal, getting opportunity to officiate become lucrative. Some persons are feeling that officiation is their vested right. Unfortunately they are teachers who ultimate train the students.

7. Now the question is whether the petitioner is the senior most lecturer of the College or not ? Admittedly, it appears that he is 3rd in the row of the seniority. He said that in the year 2002 both the senior persons declined to officiate the post of the Principal. It also appears that a regular Principal was also appointed in the year 2002 who left the College. His appointment was challenged by the petitioner in the Court but said that it was challenged with wrong advice, which was ultimately dismissed. The petitioner was continuing from such period.

8. Therefore, possibility of vested interest of the petitioner in respect of officiating post as a Principal cannot be ruled out. Be that as it may, firstly the period of continuation of service of respondent No. 5 is yet to be completed. Secondly, door of other declining senior lecturers of the year 2002 is yet open. As once they have declined, thus cannot be treated as declining senior lecturers forever. They have to get opportunities.

9. Hence, taking into the totality of the matter, we are of the view that no relief can be granted in favour of the petitioner. Thus, the writ petition stands dismissed.

10. No order is passed as to costs.

V.C. Misra, J.

11. I agree.