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**(2010) 07 AHC CK 0395**  
**In the Allahabad High Court**  
**Case No : Writ A No. 38828 of 2010**

G. Ganeshman Mishra

APPELLANT

Vs

State of Uttar Praesh and Others

RESPONDENT

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**Date of Decision :** 07-07-2010

**Acts Referred:**

**Citation :** (2010) 07 AHC CK 0395

**Hon'ble Judges :** Arun Tandon, J

**Bench :** Single Bench

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## Judgement

Arun Tandon, J.—This is third inning before this Court in respect of the same grievance, namely admission to B.T.C. Training Course-2008. First a writ petition was filed by the Petitioner, being Writ Petition No. 64186 of 2009, which was decided under order dated 15.12.2009 requiring the authorities to consider the application of the Petitioner for admission to the said course in light of the judgment of the High Court in the case of Poonam Shukla and Ors. v. State of U.P. and others. The authorities did not comply with the order within the time specified. Therefore, contempt proceedings (2nd proceedings) were initiated, being Contempt Application (Civil) No. 1974 of 2010, wherein an order was passed asking the authorities to take appropriate decision in light of the judgment of Writ Court, referred to above.

2. The Principal, District Institute of Education and Training, Fatehpur under the impugned order dated 04.06.2010 has refused to consider the claim of the Petitioner for such admission, which has resulted in this second writ petition being filed before this Court (3rd proceedings). The objection taken under the order of the Principal, District Institute of Education and Training dated 04.06.2010 on the face of it appears to be arbitrary and too technical in nature. Petitioner is stated to have submitted an application for admission to B.T.C. Training Course-2008 on 19th February, 2009 by speed post, when the last date for submission of the application was 20th February, 2009. In the case of Poonam Shukla (supra) it has been held that even if the application has been

dispatched on the last date by registered post, it would be presumed that the same has been sent within time. It is in this background the Principal, District Institute of Education and Training was required to examine the case of the Petitioner. Petitioner has produced a copy of the post office receipt, bearing No. SP-EU216467652 IN, for establishing that the application was dispatched on 19th February, 2010. The application was served in the office of the Principal subsequent to 20th February, 2010 and therefore it was returned without acceptance.

3. The Petitioner was called upon to produce the original envelope, which has been returned by the post office to him, and a particular date was fixed for the purpose.

4. The Petitioner appeared on the date and contended that the registered envelope has not been received back by him from the post office and therefore he is unable to produce the same.

5. The Principal, District Institute of Education and Training made an enquiry from the post office and the post office is stated to have informed the Principal that the registered envelope was returned to the sender on 23.02.2009 with the remark "Refused. Last date expired". Even after such endorsement having been made by the post office and despite there being a categorical stand of the Petitioner that the registered envelope has not been received by him, the Principal has refused the consideration of his application on the ground that the returned envelope has not been produced.

6. No person can be asked to do an impossible task. According to the Petitioner the returned envelope has not been received by him, the authorities should have acted reasonably and should have relied upon the receipt produced by the Petitioner qua dispatch of his application as well as on the endorsement of the post office, which records that registered envelope was returned by the office of the Principal, District Institute of Education and Training, as it was delivered beyond the cut of date, as noticed above.

7. It is surprising that in stead of acting in a reasonable manner, the Principal, District Institute of Education and Training has chosen to be hyper technical and to oust the candidature of the Petitioner only because of non-production of the envelope said to have been returned by the post office. The Principal has not expressed any doubt in the matter of submission of the application, as contended by the Petitioner, nor the receipt of dispatch issued for the purpose nor the endorsement made on the envelope at the time of return, as reported by the post office, has been doubted.

8. In the facts and circumstances of the case, the order passed by the Principal, District Institute of Education and Training, Fatehpur dated 04.06.2010 cannot be legally sustained and is hereby quashed.

9. Let the claim of the Petitioner be re-examined by the Principal, District

Institute of Education and Training, Fatehpur on his submitting a self attested copy of the application form along with a fresh bank draft, for the necessary amount, and all other documents, as required under the advertisement, preferably within two weeks from today, provided further that the Petitioner files a certificate of the Bank Manager certifying that the Bank Draft, bearing No. 663322 dated 18th February, 2009, for a sum of Rs. 100/- drawn in the name of Principal, District Institute of Education and Training, Fatehpur has not been encashed till date. It is needless to emphasis that if the Bank Draft is found to have been encashed, then it has to be presumed that the returned envelope was received back by the Petitioner and the stand taken by him is false and in that case his application shall stand rejected.

10. With the aforesaid observation/direction the present writ petition is disposed of.