

(1999) 07 AHC CK 0070
In the Allahabad High Court
Case No : C.M.W.P. No. 27948 of 1999

Ghanshyam and others

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 28-07-1999

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 21

Citation : (1999) 4 AWC 2733 : (1999) AWC 2733

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : P.S. Yadav, for the Appellant; Ashok Mehta, C.S.C., for the Respondent

Judgement

M. Katju, J.—Heard Sri P. S. Yadav, learned counsel for the petitioner, and Sri Ashok Mehta, learned Chief Standing Counsel for respondents.

2. The petitioners have prayed for a mandamus directing the respondents to permit them to join B.T.C. training course in pursuance of the advertisement dated 8.3.1998 copy of which is Annexure-1 to the petition. Since a large number of similar petitions have been filed In this Court, this Judgment will govern all such similar petitions which are pending in this Court. The aforesaid advertisement has been issued in pursuance of the G.O. dated 9,1.1998 whose validity has already been upheld by this Court in Writ Petition No. 29107 of 1999. Alok Kumar Pandey v. State of U. P. and others, which was disposed of by Hon'ble S. R. Singh, J., by its judgment dated 19.7.1999 copy of which is Annexure-3 to the counter-affidavit.

3. The petitioners claimed that they have passed B.Ed. from various institutions and they claimed that they are entitled to be sent for B.T.C. training course in pursuance of the said advertisement.

4. In a large number of similar petitions, it has been found that in many cases the petitioner did not even apply in response to the advertisement dated

8.3.1998, and hence obviously such persons could not be considered at all. The petitions (in which the petitioners have not applied) deserve to be dismissed on this short ground alone.

5. Annexure-2 to the counter-affidavit is the copy of the G.O. dated 9.1.1998. This very G.O. has been upheld by this Court in Alok Kumar Pandey's case, (supra) and I fully agree with the view expressed by Hon'ble S. R. Singh. J., in the above case which was decided on 19.7.1999. A perusal of the counter-affidavit shows that the State Government was concerned about providing primary education to all citizens of the State in view of the Judgment of the Supreme Court in Unnikrishnan's case and wanted to appoint teachers who are having B.T.C. certificates. However, it appears from paragraph 3 of the counter-affidavit that there was a shortage of B.T.C. trained teachers in the State and one of the reasons for this shortage was that for the last two consecutive years entrance results could not be declared as the matter was subjudice and pending in this Court in a writ petition. In view of the fact that there was shortage of B.T.C. trained teachers, the State Government took a policy decision to give B.T.C. training to certain specific categories, viz., B.Ed./L.T./C.P.Ed./ D.P.Ed, as mentioned in the Government Order dated 9.1.1998. This was done because while on the one hand there was shortage of B.T.C. trained teachers on the other hand a large number of teachers having training certificate of B.Ed./L.T./D.P.Ed./ C.P.Ed. were unemployed. As stated in paragraph 3 (iii) of the counter-affidavit, the training institutes turn out 16,000 trained graduates for teaching in Secondary Schools and Intermediate Colleges, but only about 4,000 can be absorbed. Thus around 12,000 trained graduates remained unemployed every year, and this number increases year after year. In this special background, a policy decision was taken as per the G.O. dated 9.1.1998 and consequently the Impugned notification dated 8.3.1998 was issued. In the counter-affidavit, it has clearly been stated that this arrangement was only a one-time arrangement and a special concession was given to the trained persons of certain specific categories in view of the shortage of B.T.C. trained teachers. This special concession was given only to the teachers who had got their B.Ed./ L.T./C.P.Ed./ D.P.Ed. from the institutions which are in U. P. and not to those who got such certificates from outside U. P. Those who applied in response to the advertisement dated 8.3.1998 were considered and quality point marks awarded to them according to the G.O. and the selection for sending them for B.T.C. training was done strictly on merits as per quality point marks in accordance with the G.O. dated 9.1.1998. In paragraph 15 of the counter-affidavit, it has been stated that the applicants who applied in response to the advertisement dated 8.3.1998 have been considered on merit as per quality point marks and only those who have been selected have been sent for B.T.C. training. I have been informed by the learned Chief Standing Counsel that against 27,000 vacancies for the B.T.C. training course more than 1,95,000 persons applied. Selections have been made strictly in accordance with the merit as per quality point marks and only those who were selected have been sent for B.T.C. training; In

paragraph 17 of the counter-affidavit, it has been stated that those who did not fulfill the requirements of the G.O. dated 9.1.1998 or who did not come in merit in accordance with the said G.O. were not selected for training and hence there was no violation of Articles 14, 16 and 21 of the Constitution. I am in agreement with this submission as the G.O. dated 9.1.1998 has been issued in certain very special circumstances and hence the selection can only be done strictly in accordance with the aforesaid G.O. and not otherwise.

6. In paragraph 18 of the counter-affidavit, it has been stated that the advertisement was made in March, 1998 and selections have already taken place in April, 1999 and at present no seat is vacant and even the last round of training in theoretical part has been completed on 30.6.1999.

7. Petitioners 4, 6, 8 and 10 obtained B.Ed. certificate from outside the State and hence obviously they cannot be considered according to the G.O. dated 9.1.1998. Learned counsel for the petitioner submitted that this restriction in the G.O. dated 9.1.1998 gave benefit to only those who did their B.Ed./L.T./C.P.Ed./D.P.Ed, in the State of U. P. and hence it is in violation of Article 14 and 21 of the Constitution. I do not agree with this submission. It is open to the State Government to make a classification in Its G.O. and the Government has restricted the scope of G.O. to only who got training within U. P. I do not regard this as violation of Articles 14 and 21 of the Constitution. If this Court directs that even those who have got training from outside U. P. will be given the benefit of the G.O. dated 9.1.1998. that will mean that this Court is amending the said G.O.. which this Court cannot do. The G.O. was issued by the State Government and hence can only be amended by the State Government and not by this Court. I have carefully gone through the G.O. dated 9.1.1998 and I do not find any violation of Article 14 or 21 of the Constitution. In my opinion, only those who strictly come within the purview of the G.O. dated 9.1.1998 and who were selected on merit can get the benefit of the aforesaid G.O.

8. Thus, this petition and all similar petitions pending in this Court are dismissed. The interim orders, if any, are vacated. However, if any of the petitioners wish to contend that they come within the purview of the G.O. dated 9.1.1998 and that they applied against the advertisement dated 8.3.1998 and they have not been selected on merit wrongly, it is open to them to may make a representation to the Director, and if they do so, the Director himself or through some other officer nominated by him shall decide the same expeditiously preferably within two months of production of a certified copy of this order in accordance with law. I may make it clear that only those who strictly come within the purview of the G.O. dated 9.1.1998 and who also applied in response to the advertisement dated 8.3.1998 can make such representation, and not others. In other words, only those who claim that their quality point marks have been wrongly calculated, or that according to the quality point marks awarded to them, they are entitled to selection, can make a representation and not others.