

(2011) 04 UK CK 0039

In the Uttarakhand High Court

Case No : Writ Petition No. 864 of 2010 (S/S)

Haseen Ahmad

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 07-04-2011

Acts Referred:

Citation : (2011) 04 UK CK 0039

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Judgement

Sudhanshu Dhulia, J.—Heard Mr. Subhash Upadhyay, Advocate for the Petitioner and Mr. N.P. Sah, Standing Counsel for the State of Uttarakhand.

2. The Petitioner was selected as an Assistant Teacher (Urdu), who had applied in response to an advertisement issued by the State of Uttarakhand in the year 2006. The Petitioner was declared successful in the written examination and was called for examination of his documents. All the same, due to delay on the part of the State Authorities, who wanted to verify the documents of the Petitioner from the Institute from where he had passed the necessary qualifications, which was situate in Aligarh (U.P.), the matter was delayed. Subsequently when the Authorities were satisfied as to the veracity of the documents, it was too late to appoint the Petitioner inasmuch as the vacancy was filled by another candidate. This Court on the last occasion i.e. on 16.3.2011 had passed the order directing the Standing Counsel to file its counter affidavit answering certain queries made by the Court and to keep one post of Assistant Teacher (Urdu) vacant in the State, preferably in a neighboring district, of Haridwar. The operative portion of the order reads as under:

This Court on the last occasion had directed the State counsel to get instructions as to whether there are any posts of Assistant Teacher (Urdu) belonging to OBC category which are lying vacant elsewhere in the State. Today a copy of letter of the Director, School Education dated 14.3.2011 has been produced before this Court. It only states that the appointment of teacher is a district level

appointment, etc, etc. It still not answer as to whether any post of Assistant Teacher (Urdu) are lying vacant elsewhere in the State.

All the same, in order to get the right perspective of the matter, counter affidavit is required from the Respondents. Apart from the averments made in the writ petition, the State shall also answer as to whether any posts of Assistant Teacher (Urdu) are lying vacant in any other districts in the State, except district Haridwar. It is clarified that the District Education Officer, Haridwar shall file a separate counter affidavit as the appointment of the Petitioner primarily relates to his district. Three weeks" time is granted to the Respondents to file counter affidavit.

List this matter on 7.4.2011 in the daily cause list.

Meanwhile, as an interim protection to the Petitioner, the Director of School Education is directed to keep a post of Assistant Teacher (Urdu) vacant in the State, preferably in a neighboring district, of Haridwar.

3. Even today the counter affidavit has not been filed by the State. As such, the writ petition is being disposed of by issuing a writ of mandamus to the Secretary, Education, Uttarakhand, Dehradun to issue appointment-letter to the Petitioner on the post of Assistant Teacher (Urdu). It is made clear that as far as possible the appointment should be made in District Haridwar or any other nearby district and only if such vacancy is not available in those districts, the Petitioner will be appointed to any other district. In order to remove all doubts, it is also made clear that this appointment of the Petitioner shall be subject to the educational credential of the Petitioner, which shall be examined by the Secretary, Education, State of Uttarakhand, Dehradun or by any other officer deputed by him.

4. The writ petition is accordingly disposed of.

5. No order as to costs.