
(2010) 03 AHC CK 0009
In the Allahabad High Court
Case No : Writ Petition No. 1311 of 2010

Jagdish Maurya

APPELLANT

Vs

State of U.P. and another

RESPONDENT

Date of Decision : 11-03-2010

Acts Referred:

Citation : (2010) 127 FLR 1043

Hon'ble Judges : S.S. Chauhan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.S. Chauhan, J.—The present petition has been filed for quashing of the advertisement dated 3.2.2010 and the Government Order dated 29.6.2002 and with a further prayer to remove the restriction imposed by the said Government Order.

2. The petitioner in pursuance to the advertisement in 2006 applied for the post of Co-ordinator of Block Resource Centre and he was selected and appointment letter was issued in his favour on 3.3.2006. The petitioner joined in pursuance to the aforesaid appointment letter and continued to discharge his duties as Co-ordinator of Block Resource Centre for a period of four years. Thereafter, Government Order, which was issued on 1.9.2001, was amended by means of the present impugned Government Order dated 29.6.2002 making certain amendment in the procedure of appointment, wherein it was provided that all those teachers, who have worked as Co-ordinator of Block Resource Centre and Assistant Co-ordinator of Block Resource Centre for a period of two years, will not be selected again for the said post and new incumbents will be given opportunity with certain experience enumerated therein to the extent of having teaching experience of eight years in basic schools and three years for Assistant Co-ordinator of Block Resource Centre and five years for Co-ordinator of Nyay Panchayat Resource Centre. The said Government Order is put to challenge by way of this petition.

2. Submission of learned Counsel for the petitioner is that petitioner has already worked for a period of four years and, therefore, he is entitled to continue and he cannot be replaced by a similarly selected person on officiating basis. He further submits that no defect has been found in the working of the petitioner and moreover the petitioner has been considerable experience and, therefore, he is entitled for the continuance on the post in question and the fresh advertisement is liable to be quashed.

3. I have heard learned Counsel for the petitioner and have given my anxious consideration to the arguments advanced by him and I find that the aforesaid decision has been taken as a policy matter by the State Government after taking various factors into consideration. The State Government has found that it was necessary to amend the aforesaid Government Order and provide the period of working of Co-ordinator of Block Resource Centre and Co-coordinator of Nyay Panchayat Resource Centre for a period of two years only with a view to give chance to the new incumbents, who are more energetic and who may not involve in the corruption and other activities and the teachers, who have worked for a period of two years may engage themselves seriously in the teaching business and hence the period of two years is sufficient guideline and necessary factor. A letter has been written by the State Project Director on 4.5.2002 and the said letter has been taken into consideration for amending the Government order.

4. The Court is not supposed to go beyond the policy of the Government and laying of the new policy cannot be questioned by the petitioner before this court unless it is against the constitutional mandate or against any statutory provision. In the present case, it is evident that the earlier Government Order dated 1.9.2001 has been amended on the basis of various factors, which have been taken into consideration by the State Government including the letter of the state Project Director dated 4.5.2002 and has proceeded to amend the said Government Order with a view to create congenial and healthy atmosphere in the department. The above amendment also goes to indicate that the State Government in its wisdom thought it proper to give opportunity to new energetic hands. Whether a policy decision can be interfered with by the Court or not, has been succinctly laid down by the Apex Court in series of decisions and it has been held that the Courts should be slow to interfere with the policy matters and leave the Government to implement the said policy and to have feed back of the said policy. Trial and implementation of a policy is within the domain of the State Government and the Court cannot substitute its opinion in the matter. The Apex Court in series of decisions as indicated below has also come to the same conclusion, which are as under:

Ramchandra Murarilal Bhattad and Others Vs. State of Maharashtra and Others,

Sanjay Singh and Another Vs. U.P. Public Service Commission, Allahabad and Another,

Ashoka Smokeless Coal Ind. P. Ltd. and Others Vs. Union of India (UOI) and

Others,

Directorate of Film Festivals and Others Vs. Gaurav Ashwin Jain and Others,

Indian Airlines Officers" Association Vs. Indian Airlines Ltd. and Others,

Dhampur Sugar (Kashipur) Ltd. Vs. State of Uttranchal and Others,

Kusumam Hotels (P) Ltd. Vs. Kerala State Electricity Board and Others,

V. Sivdmurthy v. State of A.P. (2008) 13 SCC 730,

State of U.P. and Others Vs. Chaudhari Ran Beer Singh and Another,

Sooraram Pratap Reddy and Others Vs. District Collector, Ranga Reddy Distt. and Others,

Basic Education Board, U.P. Vs. Upendra Rai and Others,

Delhi Bar Association (Regd.) Vs. Union of India (UOI) and Others,

Jayant Achyut Sathe Vs. Joseph Bain D" Souza and Others,

Delhi Development Authority, N.D. and Another Vs. Joint Action Committee, Allottee of SFS Flats and Others,

5. Apart from it, recently similar writ petition bearing No. 1083 (S/S) of 2010 has already been dismissed by Hon"ble Single Judge of this Court on 25.2.2010.

6. Having considered the arguments of the Counsel for the petitioner and the learned Standing Counsel and the law propounded above, I find that the opposite parties have committed no illegality in issuing the Government Order dated 29.6.2002.

Petition is devoid of merit. It is accordingly dismissed.