

(2009) 04 AHC CK 0393
In the Allahabad High Court

Kanti Bansal

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 20-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0393

Hon'ble Judges : V.K.Shukla, J

Final Decision : Dismissed

Judgement

V.K.Shukla, J.

Present writ petition has been filed for following relief:

(1) issue a writ, order or direction in the nature of certiorari, quashing the Advertisement No. 1/19992000 so far as it relates to the petitioner's college namely Laxman Prasad Chaturvedi Arya Kanya Inter College, Mathura.

(2) issue, a writ order or direction in the nature of mandamus commanding the respondents to decide the question of regularisation first before regularisation first, before declaration of the result by the Commission, regarding the post of Principal of college Laxman Prasad Chaturvedi Arya Kanya Inter College, Mathura.

(3) issue a writ, order or direction the nature of for which this Hon'ble Court may deem fit and proper in the circumstances of the present case.

In the District of Mathura there is recognised institution, known as Laxman Prasad Chaturvedi Arya Kanya Inter College, Mathura. The institution in question is governed by the provision of U.P. Intermediate Education Act, 1921 and by virtue of being in grantinaid list of the State Government, the provision of U.P. Act No. 24 of 1971 are fully applicable to the said institution. Selection and appointment on the post of Principal and teacher is to be made strictly as per provision as provided for under U.P. Act No. 5 of 1982. In the institution concerned, petitioner has been functioning as adhoc Principal of the institution

since 30.6.2002 and her signature has been attested on 28.6.2004. Vacancy in question has been notified to U.P. Secondary Education Service Selection Board U.P. at Allahabad and pursuant to the same U.P. Secondary Education Service Selection Board U.P. at Allahabad has issued advertisement and there, petitioner has also been invited for interview, at this juncture present writ petition has been filed.

Sri P.K. Jain, Advocate, learned counsel for the petitioner contended with vehemence that in the present case State Government is considering the matter of regularisation of existing incumbents, who are holding the post of Principal, as such exercise, which is being sought to be undertaken is unjustifiable, same is liable to be dropped.

Countering the said submission, learned Standing counsel on the other hand contended that till date no provision has been framed for extending the benefit of the regularization, and in case some material was sought to be collected in the said direction, same will not confer any right whatsoever on the petitioner. U.P. Secondary Education Service Selection Board U.P. at Allahabad cannot be prevented from discharging its statutory function i.e. by making advertisement and concluding the selection proceedings.

After respective arguments have been advanced, undisputed factual position, which is emerging in the present case is that post of Principal has fallen vacant on 30.6.2002, and on the said post, petitioner has been appointed to function as adhoc principal and she has been performing and discharging her duty. This fact is also admitted that till date in U.P. Act No. 5 of 1982, no statutory provision has been incorporated and provided for extending the benefit of regularisation to those adhoc teachers/ Principals, who have been appointed on 30.6.2002 or thereafter. As there is no statutory provision for extending benefit of regularization. U.P. Secondary Education Service Selection Board U.P. at Allahabad in its turn has chosen to advertise the vacancy in question and has also chosen to invite applicants for interview including the petitioner, by virtue of being senior most teacher, as such no fault could be found in the selection proceeding, as it is strictly in consonance with provision as provided in U.P. Act No. 5 of 1982 and 1998 Rules. It is true that State Government has called for particular of incumbents, who had been holding the post of Principal to consider the matter of regularization, but this will in no way improve the case of the petitioner, inasmuch as thereafter, State Government has not taken any further follow up action to come out with fresh scheme for extending benefit of regularisation in the same way and manner as has been done in the past by incorporating statutory provision such as 33A,33A(1A)(1B)(1C), 33B,33C,33D,33E, 33F of the Act.

Consequently in the fact of the present case, as there is no statutory provision for extending benefit of regularisation till date and petitioner admittedly being adhoc appointee will have to face regular process of the selection, as adhocism cannot be permitted for all times to come.

Consequently, writ petition as it has been framed and drawn, is dismissed.

No order as to cost.