
(2008) 01 AHC CK 0001
In the Allahabad High Court
Case No : Spl. A No. 31 of 2008

Kumari Shahjahan

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 17-01-2008

Acts Referred:

Citation : (2008) 5 AWC 5279

Hon'ble Judges : Pradeep Kant, J; Narayan Shukla, J

Bench : Division Bench

Advocate : Prabhat Kumar and Jitender Pandey, for the Appellant; Yogendra Nath Verma, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard the learned Counsel for the Appellant Sri Prabhat Kumar and the counsel for the opposite party No. 2 Sri Yogendra Nath Verma.
2. The Appellant, Km. Shahjahan challenges the order passed by the learned single Judge dated 19.12.2007 by means of which the writ petition preferred by her has been dismissed wherein she had claimed that the appointment on the post of Shiksha Mitra of opposite party No. 6 was made for 2006-07 and therefore, that selection has come to an end, consequently a fresh selection should be held.
3. Learned single Judge without recording any finding as to whether the appointment of Shiksha Mitra is made for a particular session or it has to continue, even thereafter, in case the appointment is renewed, dismissed the writ petition after observing that it was not proper nor in the interest of justice that the Court should interfere in the matter pertaining to the year 2007-08 which is shortly going to end on 31.5.2008 in this year. The learned single Judge did not interfere with the working of opposite party No. 6 or her continuance for the Session 2007-08 but did not express any opinion as to whether the said appointment can be renewed any further or not. However, it was observed that

for the next session the Basic Shiksha Adhikari will take steps in accordance with the Government order.

4. The learned Counsel for the Appellant reiterated his stand that the appointment of Shiksha Mitra having been made for 2006-07, therefore, the appointment of opposite party No. 6 could not have been extended either for the next session, i.e., 2007-08 nor she can be allowed any further, therefore, a fresh selection be directed to be made.

5. The State Government for universalisation of primary education and for participation of educated youth has framed a scheme known as "Shiksha Mitra Yojna". The scheme has been made to achieve the enshrined constitutional goal of universalization of the primary education and to provide education through educated youth voluntarily. In fact this scheme has been framed to give an opportunity to the local educated youth of the village to impart education with community feeling in their own village.

6. The Government order dated 1st July, 2001 lays down the manner in which the Shiksha Mitra are to be appointed and in Cause (5) the tenure of such appointment is mentioned. It says that ordinarily the period of work/tenure of a Shiksha Mitra would come to an end on the last day of May but in case the work and conduct of Shiksha Mitra is satisfactory, then the Committee can identify him or her, as the case may be, for the next session also. It obviously means that if the work and conduct of Shiksha Mitra is satisfactory, he or she, as the case may be, continued for the next session. This procedure would hold good till it is found that Shiksha Mitra has incurred some disqualification and is not fit or suitable or his/her performance or conduct is not satisfactory.

7. In paragraph 7 of the aforesaid Government order dated 1st July, 2001, it has been provided that if Shiksha Mitra is selected for the next session also, then he/she would be required to undergo 15 days re-fresher training course as against the prescribed training course of one month on the original selection. During the course of training such a Shiksha Mitra shall be paid honorarium of Rs. 200 as against the stipend of Rs. 400, which is paid at the time of initial appointment. The scheme thus aforesaid clearly lays down not only the procedure for initial appointment of Shiksha Mitra for a particular academic session but also for his/her renewal for the subsequent academic years.

8. Later on another Government order dated 10th October, 2005 has also been issued wherein the provisions for renewal of the appointment of Shiksha Mitra has again been provided. In terms of the Scheme of Shiksha Mitra and the Government order dated 1st July, 2001 read with Government order dated 10th October, 2005, there remains no doubt that a Shiksha Mitra who has been selected and appointed for a particular session, would be entitled to be considered for continuance in the next academic session provided his/her work and conduct is found to be satisfactory and renewal of such appointment has been done on recommendation being made by the Committee concerned.

9. The argument of the learned Counsel for the Appellant that the appointment of Shiksha Mitra is made for a particular academic session and it would come to an end on the last day of May, is not tenable for the reason that besides the fact that neither the scheme nor the Government order aforesaid prohibits the continuance of a Shiksha Mitra for the next academic session nor there is any requirement for making a fresh selection every year.

10. The Scheme of Universalization of primary education, through the educated youth in its own village is not a scheme for providing jobs to the educated youth. It is a scheme for providing education and making the village people literate for which the youth has to come forward to render the services voluntarily. In case the scheme is interpreted to mean that in every academic session a fresh selection is to be made it would have serious adverse effects, firstly, the selection process will have to start and continue in every year which may delay in appointments, resulting into deprivation of education, to the village people, which is the essential back-bone, purpose and object of the scheme and there would be no security or surety of Shiksha Mitra who has been granted appointment for a particular academic session as per Government order, so as to allow him to continue for the subsequent academic session making, it open for others to adopt such means which are not legal for having the post of Shiksha Mitra which may lead to rampant corruption.

11. Even otherwise, even if, the scheme had provided for selection of one academic session it could not have been justified the replacement of one Shiksha Mitra by another Shiksha Mitra every year. Besides, it would mean displacement of a person who has been assigned the job after full-fledged training with a new raw person. The scheme, therefore, says that if the work and conduct of Shiksha Mitra for a particular academic session is satisfactory, he/she can be selected for the next academic session also.

12. That being the position, it cannot be said that the scheme prohibits the continuance of any Shiksha Mitra for subsequent academic sessions. The requirement is that his/her matter would be considered by the Committee and if the work and conduct of Shiksha Mitra is found to be satisfactory, the appointment of Shiksha Mitra be continued for the subsequent academic session also.

13. In the instant case, it is not known as to whether the Committee has taken any decision for considering the candidature of opposite party No. 6 for her continuance and therefore, we while dismissing the special appeal provide that before proceeding further to make any fresh selection the Committee shall consider the case of opposite party No. 6 for continuance in terms of the aforesaid Government order on the post of Shiksha Mitra.

14. At this juncture learned Counsel for the Appellant submitted that since the opposite party No. 6 never joined on the post of Shiksha Mitra therefore, the Appellant's continuance cannot be considered for continuance for the subsequent

session. All these questions can be well considered by the Committee itself and not by the Court.

Subject to aforesaid directions, the special appeal is dismissed.