

(2009) 04 AHC CK 0216
In the Allahabad High Court

Lakshmi Kant Tripathi

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 28-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0216

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

Final Decision : Dismissed

Judgement

V.K. Shukla, J.

Present writ petition has been filed questioning the validity of decision dated 21.01.2009 taken by Joint Director of Education, mentioning therein that against single post of lecturer meant for promotion papers of two separate Assistant Teachers connected with different subjects have been sent, as such the District Inspector of Schools has been asked to explain the position.

Record in question reflects that earlier, petitioner had filed writ petition No. 22500 of 2008 before this Court, and this Court on 06.05.2008 had dismissed the writ petition by observing that it was open to the Committee of Management of the institution to consider the proposal of promotion in case vacancy had occurred and it was required to be filled up by way of promotion. Thereafter, the Committee of Management on 04.08.2008 by means of resolution No.2 resolved that the post of Civics lecturer had fallen vacant on 30.06.2006 and the same was within 50% quota, and as per the order passed by this Court in writ petition No.6047 of 2008 recommendation was made for consideration of the matter of promotion. Thereafter, by means of another resolution no. 3 it was resolved that another vacancy has also occurred on 30.06.2008 and the same falls within 50% quota, as such recommendation was made for considering the matter of promotion. On receipt of such resolutions, the Joint Director of Education considered the matter and mentioned that there was only one post against which two proposals had been sent. In this background the Joint Director of Education asked the District Inspector of Schools to examine the matter and explain the

situation. At this juncture present writ petition has been filed.

Sri Arun Kumar Mishra, learned counsel for the petitioner, contended with vehemence that legitimate rights of the petitioner are sought to be defeated, as such the present writ petition deserves to be allowed.

learned Standing Counsel, on the other hand, contended that the matter has been remanded back for better particulars, as such this Court should not interfere in the matter.

After respective arguments have been advanced, the factual position which emerges in the present case, is that the Committee of Management has passed resolution dated 4.8.2008 and the most surprising feature of the said resolution is that the same recommends for promotion on the post of Lecturer in Civics, which had fallen vacant on 30.06.2006, and also qua the post of Lecturer in Sociology, which had fallen vacant on 30.06.2008. The Joint Director of Education has mentioned that there is only one post of Lecturer for promotion, against which two recommendations have been made, and in this background the District Inspector of Schools has been asked to examine the matter as to which out of the two posts of Lecturer, one in Civics which fell vacant on 30.06.2006, and the other in Sociology which has fallen vacant on 30.06.2008, falls within 50% quota for promotion, and which one of the two is liable to be filled up by way of promotion, as per provisions provided for under U.P. Secondary Education Service Selection Board Rules 1998. The Joint Director of Education has remanded the matter back to the District Inspector of Schools with direction to get the matter examined, and to find out as to which of the two posts of lecturer, one in Civics which fell vacant on 30.06.2006, and the other in Sociology which fallen vacant on 30.06.2008, falls within 50% quota and is liable to be filled up by way of promotion. Until and unless the question posed by the Joint Director of Education is answered by the District Inspector of Schools, no direction can be issued to fill up the vacancy.

In view of the above discussion, writ petition is disposed of with direction to the District Inspector of Schools, Kushinagar to get the matter examined, and answer the query made by the Joint Director of Education within six weeks from the date of receipt of certified copy of this order, and then entire papers be transmitted to the Joint Director of Education for placing the matter before the Selection Committee constituted under section 12 of U.P. Act, No. 5 of 1982 for further action.