
(2007) 10 AHC CK 0077
In the Allahabad High Court

Manish Kumar Dayal

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 11-10-2007

Acts Referred:

Citation : (2007) 10 AHC CK 0077

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard learned Counsel for the parties.

2. The petitioner applied on 31.7.2006 for the post of Panchayat Mitra pursuant to advertisement dated 11.7.2006. At the relevant time the real brother of the petitioner was a member of the Gram Panchayat who is said to have resigned from the post on 4.8.2006.

3. The petitioner is aggrieved by the fact that though he had topped in the merit list but he had not been given appointment in preference of respondent No. 7 on the ground that he was related to Member of the Gram Panchayat.

4. The petitioner has earlier come up before this Court in writ petition No. 2543/07 which was disposed of by the order dated 16.1.2007. Subsequently he filed representation challenging the appointment of Raja Bhaiya who was at serial No. 2 in the merit list.

5. It has been recorded by the Zila Panchayat Raj Adhikari that after the Raja Bhaiya had been appointed, the petitioner by manipulation and in collusion of some employees placed the resignation in the file after cutting and over-writing on the dates. The relevant extract of the order is as under:

easjs }kjk fu;qfDr i=koyh esa miyC/k dkxtrh o ;kph ds izR;kosnu o dkxtrks dk voyksdu o ifj"kyu fd; x;k A xzke iapk;r fyyokgh esa iapk;r fe= dh fu;qfDr gsrq foKfIr fnukad 11-7-06 ds dze esa ;k o nks vU; O;fDr jktkHkb;k o nqxsZ"k dqekj

ds vkosnu fu;fr vfUre frFFk 5-8-06 rd izkIr gq, Fks ftldh fu;qfDr gsrq xzke iapk;r }
 kjk fu;ekuqlkj fnukad 18-8-06 dks Jh NksVk iz/kku fyyokgh dh v/;{krk es
 iz''kklfud lfefr dh cSBd es fopkj fd;k x;k A ftles ik;k x;k fd ;kph euh''k dqekj dk
 HkbbZ Jh jes''k dqekj xzke iapk;r fyyokgh dk fuokZfpr InL; gS fof/k o fu;eksa ds
 vuqlkj fuokZfpr iapk;r inkf/kdkjh dk lxk lEcU/kh iapk;r fe= gsrq vugZ gksxk
 pwWfd ;kph Jh euh''k dqekj dk lxk HkbbZ Jh jes''k fuokZfpr iapk;r InL; Fkk blfy,
 iz''kklfud lfefr }kjk cSBd esa fu.kZ; fy;k x;k vkSj mfYyf[kr fd;k x;k fd Jh euh''k
 dqekj iq= Jh f''kon;ky dk lxk HkbbZ jes''k dqekj fuokZfpr InL; xzke iapk;r gS ftldk
 bLrhQk izkIr ugh gqv k gS vr% nwljs ua- ij vafdr vkosnd jtkk HkbZ;k iq= Jh lqUnj
 yks/kh dk uke oj;rk lwph es f}rh; dzekad ij vkrk gS A xzke iapk;r dh iz''kklfud
 lfefr dh cSBd dh izfr ds voyksdu ls Li''V gS fd cSBd esa fu.kZ; ds le; fnukad
 8-8-06 rd Jh euh''k dqekj ds lxs HkbbZ Jh jes''k dqekj }kjk bLrhQk iapk;r InL; in
 esa ugh fn;k x;k Fkk A iz''kklfud lfefr ds fu.kZ; ds mijUr ;kph }kjk fu;qfDr ikus
 ds fy, vius HkbbZ ls bLrhQk ckn esa fdlh le; fnyk;k x;k vkSj dk;kZy; ds deZpkjh
 ls feydj i=koyh es yxk;k x;k vkSj mles fnukad iqjkuh vksoj jkbZfVax djrs gq,
 fy[kh xbZ A ;g ckr esjs }kjk i=koyh voyksdu djus ij laKku es vkbZ gS ftlds fy,
 dk;kZy; deZpkjh o xzke iapk;r fodkl vf/kdkjh ds fo:) vyx ls dk;Zokgh dh tk jgh
 gS dk;kZy; o deZpkjh }kjk cxSj esjs le{k j[ks x;s R;kx Ik= okn es i=koyh esa
 yxk fn;k x;k ftlesa dh bLrhQs ij esjk dksbZ BUMkslesUV ugh gSA ;g Hkh mYys[k
 djuk gS fd vxLr ekg o mlds ckn tks bLrhQs izkIr gq, gS mudks fu;ekuqlkj Lohd`fr
 v/;{k ftyk iapk;r dks Hkst fn;k x;k Fkk D;ksfd bLrhQk dh Lohd`fr v/;{k ftyk
 iapk;r ds }kjk gksrh gS ;fn xzke iapk;r dh iz''kklfud cSBd ds iwoZ ;kph }kjk
 vkosnu izLrqr djus ds iwoZ muds HkbbZ jes''k }kjk iapk;r InL; ds bLrhQk fn;k x;k
 gksrk rks mlds vkosnu i= rFkk iz''kklfud lfefr dh cSBd esa xzke iapk;r fodkl vf/
 kdkjh o mifLFkr vU; iz''kklfud lfefr ds InL;ksa }kjk dk;Zokgh fnukad 8-8-06 esa
 fuf''pr mYys[k fd;k x;k gksrk iz''kklfud lfefr dh cSBd dk;Zokgh eas ;g ugh fy[kk
 tkrk fd euh''k dqekj dk lxk HkbbZ iapk;r InL; gS vkSj mUgksus bLrhQk ugh fn;k
 gS Jh euh''k dqekj o xzke iapk;r fodkl vf/kdkjh fyyokgh ds c;ku Hkh fy, x;s xzke
 iapk;r fodkl vf/kdkjh ftlus xzke iapk;r iz''kklfud lfefr dh cSBd esa mifLFkr dj
 dk;Zokgh dk fooj.k fy[kk Fkk mlds c;ku mfYyf[kr fy, x;s gS mlus vius fyf[kr c;ku
 fnukad 8-2-07 es Li''V fd;k gS xzke fla/kkSjk ds InL; xzke iapk;r fyyokgh ds
 bLrhQs esa n''kkZ;h x;h rkjh[k esjs }kjk vafdr ugha dh xbZ gS Mkyh xbZ rkjh[k
 euxUr o xyr gS] budk bLrhQk ckn esa yxk;k x;k Fkk ;gkW ij ;s Hkh mYys[k djuk
 gS fd ;kph ds HkbbZ jes''k dk iapk;r InL; ls bLrhQk o vkosnu v/kksGLrk{kjh ds
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6. It appears from the order dated 17.3.2007 passed on the representation of the petitioner by the Zila Panchayat Adhikari, Mahoba that at the time of submitting the application, the real brother of the petitioner Sri Ramesh Kumar was an elected member of the Gram Panchayat and had not submitted his resignation till the selections had been made on 8.8.2006. The gram Panchayat Adhikari further recorded a finding that Raja Bhaiya S/o Sri Sundar Lal Srivastava, respondent No. 7 who at Sl. No. 2 in the merit list, was given appointment by order dated 8.8.2006 and till that time resignation of Sri Ramesh Kumar, the real brother of the petitioner, had not been received.

7. There appears to be no illegality and infirmity in the order as the petitioner was not eligible for appointment on the date of submission of form as his real brother was Member of the Gram Panchayat and remained as such till the selections had been made. The petitioner cannot take any benefit of manipulation, interpolation or cutting in the records to show that his brother had resigned and he was eligible.

8. For the reasons stated above, writ petition is accordingly dismissed.

9. No order as to costs.