
(2012) 04 UK CK 0059
In the Uttarakhand High Court
Case No : Special Appeal No. 62 of 2012

Manju Sharma	Vs	APPELLANT
Director, School Education, Uttarakhand and others		RESPONDENT

Date of Decision : 13-04-2012

Acts Referred:

Citation : (2012) 04 UK CK 0059

Hon'ble Judges : Barin Ghosh, C.J; Umesh Chandra Dhyani, J

Bench : Division Bench

Advocate : Parikshit Saini, for the Appellant; J.P. Joshi, Chief Standing Counsel for the State/respondent Nos 1 and 2, Mr. Manoj Tiwari with Mr. Sandeep Adhikari, Advocate for respondent No. 3 and Mr. Sharad Sharma with Mr. J.S. Bisht, Advocate, for the Respondent

Judgement

Barin Ghosh, C.J.—Facts, to which there appears to be no dispute are that;

(a) the Principal of Roop Kishore Lal Mani Arya Kanya Inter College, Kashipur retired on 31st March, 2008;

(b) appellant is the senior most teacher of the said College;

(c) according to the practice, Managing Committee of the said College offered the appellant to take charge of the office of the Principal taking note of the fact that she is the senior most teacher of the said College;

(d) at that time, on account of illness, appellant declined to shoulder the additional burden of discharging the duties of the office of the Principal of the said College in her officiating capacity;

(e) the Committee of Management of the said College, accordingly, requested respondent No. 4 to shoulder the additional duties of the Principal of the said College in her officiating capacity;

(f) respondent No. 4 obliged;

(g) on 16th March, 2012, the Committee of Management of the said College considered the proposal emanated from the office of the District Education Officer to the effect that in view of the allegations made against respondent No. 4, she should be suspended and necessary action following such suspension shall be taken;

(h) at the said meeting, which was also attended by respondent No. 4, the Committee of Management decided not to suspend respondent No. 4, instead relieved her of the responsibilities of discharging the duties of the Principal of the said College;

(i) and in terms of the said decision, while respondent No. 4 was relieved of the duties of the Principal of the said College, appellant was entrusted with such duties.

In view of the actions as above, respondent No. 4 approached this Court and obtained an interim order staying the said decision of the Committee of Management. Hence the present appeal.

2. Learned senior counsel appearing on behalf of the Committee of Management submitted that his clients have taken a softer approach towards respondent No. 4. He further submitted that the decision of the Committee of Management has been approved by the District Education Officer. Learned counsel for the appellant submitted that such a decision is appealable and without exhausting the remedy of the appeal, respondent No. 4 should not have been permitted to approach the Court.

3. Considering the facts as above and taking note of the fact that asking a person to discharge in officiating capacity the duties of a Principal for the post of Principal has fallen vacant is a short term affair, and in the instant case the post of Principal is lying vacant for almost four years, it would be appropriate to take steps to fill up the said post by a permanent incumbent.

4. In the circumstances, taking the consent of the State represented by the learned Chief Standing Counsel, we direct the Committee of Management of the said College to fill up the post of Principal permanently, in accordance with law, as quickly as possible but not later than forty-five days from today. It shall be deemed that the Committee of Management has been permitted by the State and its officers to fill up the said vacancy. It is made clear that after the selection is made, the Committee of Management shall make recommendation to the District Education Officer and/or to the competent authority, whereupon the District Education Officer and/or the competent authority shall take a decision on such recommendation as quickly as possible, so that the post in question can be filled up within time as mentioned above. With the direction as above, while we dispose of the appeal, we also dispose of the writ petition and provide that respondent No. 4 shall discharge only the day to day duties of the Principal of the said College.