

(2009) 12 AHC CK 0126

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 66533 of 2009

Mohd. Rasid

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 07-12-2009

Acts Referred:

Citation : (2009) 12 AHC CK 0126

Hon'ble Judges : A.P.Sahi, J

Judgement

A.P. Sahi, J.—Heard learned counsel for the petitioner, learned counsel for the respondent and learned Standing Counsel for the State Authorities.

2. The petitioner claims that he should be given the benefit of the judgment in " the case of Annullah Ansari v. state of U. P. and others decided on 24.1.2006 in Writ Petition No. 4713 of 2006. The petitioner possess Munshi Certificate awarded by the Board of Arabic and Persian Examinations, Lucknow, U.P. which is stated to be equivalent to the High School examination under the Regulations framed by the U.P. Intermediate Education Act, 1921.

3. It has been brought to the notice of the Court that the issue in relation to possession of Munshi certificate as a qualification was raised before this Court in the case of Sumbul Naqvi v. State of U.P. and others reported in 2007(4) ESC 2227. The said issue was noticed in paragraph 6 (e) of the said decision but the Court did not go into the said issue as it held that the entire exercise undertaken by the State for advertising the Special B.T.C. Training Course (Urdu) was illegal and contrary to statutory Rules.

4. Against the aforesaid order of the learned Single Judge the State preferred Special Appeal No. 1330 of 2007 and other connected Special Appeals and the aforesaid judgment of the learned Single Judge was set aside by the judgment dated 28.11.2007. Following the said decision another Special Appeal being Special Appeal No. 1507 of 2007 was decided on 12.12.2007 and in the said Special Appeal, the respondent had filed a cross objection to the effect that since

he had offered Urdu as a subject in the Munshi examination and also in the intermediate examination, therefore, he was eligible for admission to Special B.T.C. (Urdu) Course. The said cross objection filed by Abdul Wahid could not be disputed on behalf of the State and accordingly the cross objection was allowed. Paragraphs 4 and 5 are quoted herein below:

"4. The respondent has also challenged this judgment for the reasons that according to him, he was eligible under the advertisement given by the State Government. He has, therefore, filed crossobjections. Mr. Ansari, has appeared in support of the Cross Objection filed by the respondent. It is seen from the record that the respondent, Abdul Wahid had taken Urdu as a subject in Munshi examination and also in the intermediate examination and passed the same. He was, therefore, eligible for admission to the Special B.T.C. (Urdu) Course under the government advertisement since he had taken Urdu as a subject at the intermediate level. Mr. Arora, appearing for the State did not, in all fairness, dispute this position.

5. The crossobjection will also, therefore, have to be allowed. The judgment rendered by the learned Single Judge is, therefore, set aside on this count also, as far as Writ Petition No. 63245 of 2006 is concerned. Mr. Abdul Wahid has applied for the course in pursuance to the Advertisement of 2005. That course is nearing completion and hence he cannot be considered for it. He will, however, be considered as eligible when the next advertisement is issued."

5. In view of the submissions advanced let the claim of the petitioner be examined by the respondent No. 2 who shall pass an appropriate order in accordance with the law keeping in view the observation made by this Court as expeditiously as possible preferably within a period of eight weeks from the date of production of certified copy of this order before the said authority. The authority shall also take care of the situation as to whether it is possible to extend the benefit to the petitioner at present or not.

6. With the aforesaid direction the writ petition is accordingly disposed of.