

(2009) 04 AHC CK 0392
In the Allahabad High Court

Mukesh Kumar and others

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 20-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0392

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

Final Decision : Allowed

Judgement

V.K.Shukla, J.

Petitioners who are five in number are assailing the validity of the decision dated 31.03.2009 passed by Regional Level Committee proceeding to cancel the approval accorded on earlier occasion.

Brief background of the case is that selection proceedings had been undertaken for making selection and appointment on the post of Class IV employee and after selection proceedings were over, papers were transmitted to District Inspector of Schools and District Inspector of Schools in its tern recommended the matter to the Regional Level Committee and Regional Level Committee on 24.02.2009 proceeded to accord approval to the same. After said approval was accorded, petitioners claim that they have been issued appointment letters and they have joined. Record in question reflects that District Inspector of Schools received information that incumbents who have been appointed are relatives of the Manager and Principal of the institution in question and then inquiry was got conducted and it was found that Mukesh Kumar, Vinod Kumar Kesharwani and Jamilluddin are close relative of Principal and Manager and then recommendation was made on 26.03.2009 for cancellation of said approval accorded. Regional Level Committee thereafter has proceeded to consider the same and passed order of cancellation. At this juncture present writ petition has been filed.

Sri Ashok Khare, Senior Advocate, contended with vehemence that once approval has been accorded to the appointment of the petitioner then before proceeding

to pass order of cancellation opportunity of hearing ought to have been afforded and further it has also sought to be contended that three incumbents namely, Mukesh Kumar, Vinod Kumar Kesharwani and Jamilluddin are not at all relative of Principal and Manager and coupled with this appointment of other two incumbents namely Vivek Singh and Suresh Chandra Diwakar could not have been cancelled without there being any adverse material to them as such writ petition in question deserves to be allowed.

Countering said submission Sri K.K.Chand, learned Standing counsel has contended that rightful view has been taken in the matter and no interference be made.

After respective arguments have been advanced, factual position which is emerging in the present case is that appointment of petitioners had been approved on 24.02.2009 by Regional Level Committee and thereafter complaints has been received in respect of illegalities committed qua the said selection proceedings and then District Inspector of Schools has proceeded to make recommendation and based on the same, Regional Level Committee has proceeded to pass order of cancellation. Admitted position is that before proceedings to pass order of cancellation of approval on 31.03.2009 at no point of time Regional Level Committee has ever afforded any opportunity of hearing to the petitioners. Coupled with this it has also not been indicated as to what were the malpractices have been committed in the said selection proceedings and as to in what way and manner incumbents who have been selected, were related to Principal/Manager of the institution.

As no notice has been given and specific relation ship has not been disclosed and malpractice has not been specified, as such order dated 28.03.2009/31.03.2009 passed by Regional Level Committee is hereby quashed and set side. It is hereby directed that copy of the report of District Inspector of Schools be supplied to the petitioners within a period of one month from the date of presentation of certified copy of the order passed by this Court and petitioners are free to file their objection. Thereafter Regional Level Committee shall proceed to consider the claim of the petitioner after considering the reply, if any submitted by the petitioners. Needless to say that reasoned and speaking order shall be passed by Regional Level Committee.

With the above observation writ Petition is allowed.