
(2008) 12 AHC CK 0337

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 66041 of 2008

Namita Singh

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 18-12-2008

Acts Referred:

Citation : (2008) 12 AHC CK 0337

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

Final Decision : Dismissed

Judgement

V.K. Shukla, J.

Present writ petition has been filed by the petitioner claiming following main reliefs:

"(i) issue a writ, order or direction the nature of certiorari quashing the order dated 02.12.2008 passed by Principal. , District Institute of Education and Training, Rai Bareli (Annexure12 to the writ petition).

(i)issue a writ, order or direction of a suitable nature of mandamus commanding the respondents to permit the petitioner to appear in the examination scheduled to be held in Jan." 09 at the end of special BTC training course and also to declare the result of the petitioner therein.

(ii)issue a writ, order or direction of a suitable nature of mandamus commanding the District Magistrate, Fatehpur as also the Basic Shiksha Adhikri Fatehpur to forthwith disburse the honorarium payable as Shiksha Mitra under the order dated 30/31st Jan."08 passed by District Magistrate, Fatehpur within a period to be specified by this Hon"ble Court."

Factual matrix of the case, in brief, is that the petitioner was selected and appointed as Shikshamitra and she claims to have continued to function in the said capacity in academic sessions 200303, 200304, 200405, 200506 and 200607. Petitioner submits that there was interference in her functioning in

academic session 200708, as such she filed writ petition No.50963 of 2007, and this Court on 12.10.2007 asked the District Magistrate concerned to decide the matter. Thereafter, the District Magistrate on 30.01.2008 passed an order mentioning therein that decision had been taken by incompetent authority, as such petitioner was entitled for honourarium and further she be relieved. Conduct of the petitioner was also noted therein. Petitioner had applied for special BTC course 2007 and under 10% quota meant for Shikshamitra, she was selected at District Rai Bareli. On 12.08.2008, Principal, District Institute of Education and Training, Rai Bareli made queries from District Basic Education Officer, Fatehpur with regard to experience certificate of the petitioner. Said queries were replied on 25.10.2008. Thereafter, show cause notice was issued to petitioner on 05.11.2008, to which petitioner submitted reply and thereafter order impugned has been passed by the Principal, District Institute of Education and Training, Rai Bareli.

Objection has been raised in respect of maintainability of writ petition at principal seat of Allahabad High Court, as in the present case order impugned has been passed by the Principal, District Institute of Education and Training, Rai Bareli.

Sri Ashok Khare, Senior Advocate, assisted by Sri S.K. Srivastava, Advocate appearing in support of writ petition, contended that in the present case, cause of action is interlinked with Fatehpur, as petitioner has functioned as Shikshamitra at Fatehpur, in this background this Court has got territorial jurisdiction to entertain the writ petition, as such writ petition be not nonsuited on the ground of territorial jurisdiction.

Selection proceeding for special BTC course was undertaken pursuant to advertisement published by Principal, District Institute of Education and Training, Rai Bareli. Petitioner applied for consideration of her claim under 10% quota meant for Shikshamitra. Under existing policy, the petitioner was required to append certificate qua her functioning as Shikshamitra. Said certificate had been furnished by the petitioner, and qua the same enquiry had been made and thereafter report was submitted on 25.10.2008. Thereafter, show cause notice was issued to petitioner on 05.11.2008, to which petitioner submitted reply and thereafter order impugned has been passed by the Principal, District Institute of Education and Training, Rai Bareli on 02.12.2008. This fact is not disputed that principal seat of this Court at Allahabad has got no territorial jurisdiction to entertain writ petitions qua the districts which fall within the territorial jurisdiction of Lucknow Bench. As far as Rai Bareli is concerned, it falls within the territorial jurisdiction of Lucknow Bench. The question is as to whether any part of the cause of action has arisen within the territorial jurisdiction of this Court. In the present case order impugned dated 02.12.2008 has been passed by the Principal, District Institute of Education and Training, Rai Bareli. Report has been called for from District Basic Education Officer, Fatehpur, which report has been submitted and thereafter whatever decision has been taken, same has been taken by the Principal, District Institute of Education and Training, Rai Bareli on

the basis of material which was available before him; thus no cause of action has arise within the territorial limit of district Fatehpur. Entire cause of action has arisen within the territorial limit of district Rai Bareli, from where petitioner had been selected and had been undertaking training and thereafter show cause notice was issued to him by the Principal, District Institute of Education and Training, Rai Bareli and the order impugned has been passed from the said place. Merely because petitioner has functioned as Shikshamitra at Fatehpur and report has been submitted by the District Basic Education, Fatehpur, same is not indicative of the fact that any cause of action has arisen within the territorial limit of district Fatehpur. In the facts of the present case, as admittedly, petitioner has not raised any grievance qua the report submitted; rather reliance has been laid on the order passed by the District magistrate, Fatehpur, and it has been sought to be contended that entire material has been misinterpreted by Principal, District Institute of Education and Training, Rai Bareli. Thus, no cause of action has arisen within the territorial limit of Fatehpur. Prayer for quashing of order passed by Principal, District Institute of Education and Training, Rai Bareli has been made, as such writ petition qua relief no. (i) and (ii) is not entertainable at principal seat at Allahabad.

As far as payer No (iii) is concerned, qua same liberty is given to the petitioner to represent her claim before the District Magistrate, Fatehpur, within two weeks from today along with a certified copy of this order. In the event of any such representation being made, the same shall be looked into and appropriate decision taken by the District Magistrate, Fatehpur within next eight weeks. Subject to this much observation present writ petition is dismissed for want of jurisdiction qua prayer No. (i) and (ii).