

(2011) 04 AHC CK 0327

In the Allahabad High Court

Case No : Special Appeal Defective No. 418 of 2011

Om Prakash Singh

APPELLANT

Vs

Basic Shiksha Adhikari and Others

RESPONDENT

Date of Decision : 29-04-2011

Acts Referred:

Citation : (2011) 04 AHC CK 0327

Hon'ble Judges : R.K. Agrawal, J;Bharati Sapru, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Heard learned Counsel for the parties.

2. The controversy raised in this appeal has been decided by the Division Bench in Special Appeal Defective No. 26 of 2011 in which Division Bench has passed following orders:

The Appellants were selected for B.T.C. Course based upon the fact that they were physically handicapped. The State Government on noticing the illegalities, constituted a fresh board for verification of the physically handicappedness of such candidates. One such matter came to be disposed of by this Court by order dated 9th of September, 2010, passed in Special Appeal No. (811) of 2010. This Court in that case, observed that there cannot be a fishing and roving enquiry in respect of a certificate already obtained. At the same time, this Court noted that on physical verification, the authorities came to the conclusion that the candidate has not been genuinely issued a certificate of disability or otherwise, or that he does not suffer from any disability so certified, which entitles him to such a certificate, then and in that event only, a candidate can be subjected to a fresh medical board and not otherwise.

The grievance of the Appellants is that on the report of the board before the judgment of this Court, the board has subsequently been abolished. Respondents are seeking to take action against the Appellants and show cause notice has

been issued to them.

In that context, this appeal is disposed of with the following directions:

The Respondents are bound to comply with the directions of this Court dated 09.09.2010 passed in Special Appeal No. (811) of 2010.

The copy of the report of the medical board upon which the show cause notice is issued to the Appellants, be made available to them within four weeks from today.

Respondents thereafter to show cause within 15 days from receipt of the report of the medical board and any other document which the Respondents are denying.

The Respondents thereafter act according to law and pass appropriate orders.

With the aforesaid observations appeal stands disposed of.

3. As there is no difference in the issue involved in present appeal and the abovesaid appeal, respectfully following the above decision we also dispose of present appeal on the same terms and conditions as mentioned in the aforesaid decision.

4. Heard learned Counsel for the parties.

5. The delay in filing the present appeal has sufficiently been explained in the affidavit filed in support of the application seeking condonation of delay. The application is allowed and the delay is condoned. The appeal be now treated as having been filed within limitation. Office is to give regular number.