
(2010) 07 AHC CK 0457
In the Allahabad High Court
Case No : Special Appeal No. 1646 of 2006

Om Prakash Yadav

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 20-07-2010

Acts Referred:

Citation : (2010) 07 AHC CK 0457

Hon'ble Judges : S.C. Agarwal, J;R.K. Agrawal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The present special appeal has been filed against judgment and order dated 13.11.2006 passed by the Single Judge whereby the contempt petition has been consigned to records and the notices have been discharged. Before the learned Single Judge the hearing of the contempt petition in violation of the judgment and order dated 18.2.1999 was alleged. The order dated 18.2.1999 was passed by this Court in writ petition No. 44169 of 1998, in which it was held that the Petitioners are also entitled to get the benefit of the aforesaid decision viz C.P.Ed. training may be considered for the appointment to the post of Assistant Teacher for Basic School and direction was issued to the Respondents to consider the Petitioners, who obtained C.P.Ed. training for appointment on the post of Assistant Teacher in Basic Schools in accordance with law (while holding so the Court has placed reliance upon a decision of this Court in the case of Rajendra Singh and Ors. v. Secretary, Board of Basic Education, U.P., Allahabad, Writ Petition No. 30711 of 1997 wherein similar view has been taken). The learned Single Judge has dismissed the contempt petition and discharged the notices after following the decision of the Apex Court in the case of Yogesh Kumar and Others Vs. Government of NTC, Delhi and Others, for the proposition that the Appellant did not possess required Training Certificate prescribed under the statute for being appointed as Assistant Teacher and therefore there cannot be any disobedience as alleged.

2. We have heard Sri Ashok Khare, learned Senior Advocate assisted by Sri K.C. Kishan Srivastava, learned Counsel for the Appellant and Sri B.P. Singh, learned Counsel for Basic Shiksha Parishad, U.P. Allahabad and have perused the judgment and order dated 13.11.2006 passed by learned Single Judge giving rise to the present appeal, the grounds taken in the memo of appeal and also the documents filed alongwith it.

3. Sri Khare, learned Counsel for the Appellant submitted that the judgment and order dated 18.2.1999 has become final between the parties and direction issued by the Court which ought to have been obeyed and any non compliance of the said order attracted the provisions of the contempt Act against the official who have committed disobedience. He further submitted that the learned Single Judge had erred in law in overlooking this fact. He also relied upon a Division Bench judgment of this Court in Agra City Real Estate Development Organisation Vs. State of U.P. and Others,

4. Sri B.P. Singh appearing for the Basic Shiksha Parishad, however, invited the attention of the Court to the decision of the Apex Court dated 5.2.2009 passed in Civil Appeal No. 844-846 of 2002, Secretary Board of Basic Education U.P. v. Rajendra Singh and Ors. wherein the Division Bench judgment relied upon by Sri Khare has been reversed.

However, the Hon'ble Apex Court had saved the appointment for C.P.Ed. Certificate holders, which have already been made. Sri Khare, learned Counsel for the Appellant submitted that as the Appellants have been interviewed and selected, their appointment should also be saved.

5. We may mention here that the Appellants have not being appointed on the post of Assistant Teacher and they have only been interviewed for the said post. Even if they have been selected, then also they cannot get any advantage from the direction given by the Hon'ble Apex Court in the aforesaid judgment.

In this view of the matter, we do not find any legal infirmity in the order passed by the learned Single Judge.

The appeal fails and is dismissed.