
(1987) 08 AHC CK 0019

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 6910 of 1987

Prabhu

APPELLANT

Vs

Director of Education and Others

RESPONDENT

Date of Decision : 18-08-1987

Acts Referred:

Uttar Pradesh Higher Education Services Commission (Amendment) Act, 1982 —
Section 17

Citation : (1988) 1 AWC 15

Hon'ble Judges : R.M. Sahai, J; R.K. Gulati, J

Bench : Division Bench

Advocate : Sakha Ram Singh, for the Appellant;

Judgement

R.M. Sahai, J.—Vested interest of Committee of Management to continue its own ad-hoc appointee even after regular selection has been made by the Commission and failure of officials of education department to implement provisions of Section 17 of U.P. Act v. of 1982, has not only delayed petitioner's appointment but has forced him to file this petition for a direction to opposite parties to appoint him as lecturer of Civics in National Inter College Kasimabad Ghazipur and pay him his salary at least from Feb. 87 when an order was passed in his favour by the District Inspector of Schools.

2. When this petition was presented on 17th April, the petitioner was directed to serve the Committee of Management and Principal of the College to enable them to file Counter-Affidavit. And the learned Standing Counsel was directed to file reply on behalf of the opposite parties 1 to 3. But no counter-affidavit has been filed either by the opposite parties 1 to 3, opposite parties 4 & 5 who refused to accept notices. In the circumstances there is no option but to decide this petition after hearing the learned Standing Counsel.

3. From un rebutted facts mentioned in the petition it stands established that petitioner was selected by Secondary Education Service Commission Allahabad and in pursuance of this selection the District Inspector of Schools sent a letter

on 17th October, 1984, to the Committee of Management to issue appointment letter in favour of petitioner. The petitioner however, was not appointed as another teacher who had been appointed by the Committee of Management on ad-hoc basis, had filed writ petition and obtained an interim order from this Court. The petition was however dismissed on 21st January 1985. Against this order he filed SLP in the Hon"ble Supreme Court in which interim stay order was granted but that too was vacated on 18th September 1986. After vacation of interim order by the Supreme Court the Deputy Director of Education, issued a letter on 17th January 1987 to the District Inspector of Schools to ensure the appointment of the petitioner and to take necessary steps according to law. The District Inspector of Schools on 18th February informed the manager of the college that the said order having been vacated by the Supreme Court the appointment letter may be issued in favour of petitioner. But the Committee of Management just ignored the order and effort of petitioner to persuade opposite parties to enforce the order did not yield any result.

4. U.P. Act V. is a self contained code. It provides for not only method and manner of selection of teachers but empowers the Director to enforce the orders issued for appointing a teacher. Section 17 is one of such provisions. It empowers the Director not only to issue directions to Committee of Management to appoint the selected teacher but to pay his salary and in case of failure to recover it as arrear of land revenue. The intention is that the provisions should be vigorously implemented. If the District Inspector of Schools and Deputy Director of Education after issuing directions to the Committee of Management do not take effective steps to enforce their order where Committee of Management chooses to ignore the order or does not comply with it then the entire purpose of enforcement provisions of U.P. Act v. of 1982 shall stand frustrated. It may give rise to legitimate apprehension that the officials of education department are hand in glove with the Committee of Managements. Such attitude has to be deprecated. It is a statutory function to implement the order. Mere issuance of an order is not sufficient. The petitioner was selected as far back as 1984. But he could not take over as ad-hoc teacher succeeded in securing interim order first from this Court and then by Hon"ble Supreme Court. But it is nearly one year when the Supreme Court vacated the stay order. And yet the petitioner has not succeeded in getting the appointment order. The Deputy Director no doubt issued the letter in January 1987 and the District Inspector of Schools in February 1987 to the Committee of Management to appoint the petitioner. But what have they done thereafter, that prevented them from taking strongest action against the Committee of Management. Apart from Section 17 of the Act they could have directed simple operation under Payment of Salary Act, taken action for superseding the management for not complying with the directions. It is the failure of departmental authorities to take appropriate action that forced the petitioner to approach this Court.

5. In the circumstances this petition succeeds and is allowed. A direction is issued to Deputy Director of Education to get the order implemented within two

weeks from the date of a copy of order is produced before him.

6. The Committee of Management is also directed to comply with the order issued by the opposite parties within same period.

7. A direction is issued to the District Inspector of Schools to pay salary of the petitioner from 1st March 1987, giving a margin of thirteen days from the date he issued the order to Committee of Management to appoint the petitioner, upto August 87 Within three months from the date a copy of this order is produced.

8. Although Committee of Management has not put in appearance and has refused to accept notice we are of opinion that it is a fit case in which it should pay cost to petitioner which is assessed as Rs. 1000/-.

9. A copy of the order may be issued within one week on filing a proper application.