
(2008) 01 AHC CK 0223
In the Allahabad High Court

Pradeep Kumar

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 23-01-2008

Acts Referred:

Constitution of India, 1950 — Article 226

Constitution of India, 1950 — Article 226

Constitution of India, 1950 — Article 226

Citation : (2008) 5 AWC 5359 : (2008) 1 UPLBEC 832

Hon'ble Judges : Ashok Bhushan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ashok Bhushan, J.—Heard Sri R.K. Shukla learned Counsel for the petitioner, Sri Jitendra Pal Singh Chauhan learned Counsel appearing for respondents No. 6 and 7 and learned Standing Counsel.

2. By this writ petition, the petitioner has prayed for a writ of mandamus commanding the respondents to permit the petitioner to appear in B.T.C. Correspondence Course in the year 2007 in pursuance of the Government order dated 27th December, 2004. It has further been prayed that respondents be commanded to take action against respondents No. 6 and 7 as they have deleted the name of the petitioner from the letter dated 24th July, 1995 and inserted the name of Dharmendra Kumar to get training of first year B.T.C. Correspondence Course.

3. The facts of the case, as emerge from pleadings of the parties, are; the petitioner was appointed as untrained teacher on 24th August, 1992 in a primary institution, namely, Bhootpurva Sainik Shree Kalluwala Adarsh Vidya Mandir. The State Government decided to impart training to untrained teachers, who were working in recognised primary/junior high school by giving two years B.T.C. Correspondence Course training. Petitioner's case is that in pursuance of the Government order dated 6th September, 1994, letter dated 24th July, 1995 was

written by the Basic Shiksha Adhikari, Bijnor to the Principal Training School, Nagina, Bijnor to provide training to the petitioner and three other untrained teachers of the institution. Petitioner's case further is that he could not participate in the B.T.C. Correspondence Course training in the year 1995-96 due to some unavoidable circumstances but name of one Dharmendra Kumar was inserted in the letter dated 24th July, 1995. Petitioner stated that Dharmendra Kumar was not appointed in the institution. He further stated that Dharmendra Kumar was appointed on 25th January, 1996 in the institution and was not eligible for training. The Government withdrew the B.T.C. Correspondence Course and subsequently issued Government order on 27th December, 2004 providing that those candidates whose names were forwarded prior to 18th March, 1996 be imparted B.T.C. Correspondence Course training. Petitioner's case is that after coming to know about the Government order dated 27th December, 2004 the petitioner submitted an application before the Basic Shiksha Adhikari for being sent for training. Petitioner's case further is that thereafter the petitioner has sent several applications for being sent for training but when no action was taken, he had no remedy except to approach this Court under Article 226 of the Constitution of India.

4. A counter affidavit has been filed on behalf of respondents No. 1, 2 and 3 stating that petitioner has passed Intermediate examination only in the year 1997 and he had not passed Intermediate examination in the year 1995. It has been stated that petitioner was only High School passed due to which the petitioner was deprived of the training by Rajkiya Diksha Vidyalaya, Nagina. In the counter affidavit filed by respondents No. 6 and 7 it has been stated that petitioner was not qualified for being sent for training he being only High School in the year 1995-96. It has further been stated that petitioner has passed the Intermediate Examination in the year 1997, copy of the mark-sheet of the Intermediate of the petitioner from U.P. Madhyamik Shiksha Parishad has been filed as Annexure-5 to the said counter affidavit. The respondent No. 7 claimed to be appointed as Assistant Teacher on 30th December, 1991 and has joined on 1st January, 1992. A letter dated 1st August, 1995 is claimed to have been written by Basic Shiksha Adhikari to the Principal, Rajkiya Diksha Vidyalaya for registering the name of respondent No. 7 for B.T.C. Correspondence Course training. The counter affidavit further states that petitioner played fraud at the time of his appointment since he had not even passed Intermediate examination.

5. Rejoinder affidavit has been filed by the petitioner in which it has been claimed that petitioner has passed Madhyama Pariksha from Hindi Sahitya Sammelan, Prayag in the year 1990, which is equivalent to Intermediate, hence he was fully entitled for B.T.C. Correspondence Course training.

6. Learned Counsel for the petitioner, in support of the writ petition, contended that petitioner's name having been forwarded by Basic Shiksha Adhikari to the Principal, Rajkiya Diksha Vidyalaya by letter dated 24th July, 1995, the petitioner was entitled to be sent for training and in view of the Government order dated

27th December, 2004 the petitioner is entitled to be sent for training. Learned Counsel for the petitioner further submitted that petitioner having passed Madhyama (Visharad) from Hindi Sahitya Sammelan, Prayag, which is equivalent to Intermediate Examination, he was fully eligible for being sent for B.T.C. Correspondence Course training. Learned Counsel for the petitioner also contended that name of respondent No. 7 was not mentioned in the letter dated 24th July, 1995 and he got his name inserted illegally and obtained training to which he was not entitled.

7. I have considered the submissions of learned Counsel for the parties and perused the record.

The letter dated 24th July, 1995 (Annexure-2 to the writ petition), is a letter by which name of four untrained teachers including the petitioner was sent to the Principal, Rajkiya Diksha Vidyalaya, Nagina, Bijnor for arranging training of the said teachers in October, 1995 and February, 1996. The petitioner himself has come up with the case in paragraph 6 of the writ petition that petitioner could not participate in B.T.C. Correspondence Course training due to unavoidable circumstances in the year 1995-96 but one Dharmendra Kumar had inserted his name and taken part in first year B.T.C. Correspondence Course training. The petitioner has not given any detail as to why he could not join the training. The counter affidavits filed on behalf of respondents No. 1, 2 and 3 as well as respondents No. 6 and 7 state that petitioner was not permitted for B.T.C. Correspondence Course training because he did not possess eligibility for imparting such training. The specific case of the respondents is that petitioner had not passed Intermediate examination at the relevant time, which he passed only in the year 1997, thus, he was not eligible for training, hence he was not permitted to undergo training. Along with the counter affidavit filed by respondents No. 6 and 7 copies of the Intermediate mark-sheet and certificate of the petitioner have been enclosed, which show that he has passed Intermediate examination in the year 1997 from UP. Madhyamik Shiksha Parishad. The petitioner in reply to the objection regarding his qualification has come up with the degree of Madhyama (Visharad) obtained from Hindi Sahitya Sammelan, Prayag, which he claimed to have passed in the year 1990. According to the Government order dated 27th December, 1994, which has been enclosed as Annexure-6 to the writ petition only those candidates are entitled to be imparted training whose names were registered prior to 18th March, 1996. The question to be considered is as to whether petitioner was eligible for being sent for training at the time when his name was registered, which depend on the fact as to whether the petitioner was eligible for imparting training at the relevant time. Thus the question to be considered in the present case is as to whether degree of Madhyama (Visharad) from Hindi Sahitya Sammelan is equivalent to Intermediate.

8. Learned Counsel for the respondents has placed reliance on judgment of this Court reported in Shailendra Kumar Singh and Others Vs. State of U.P. and

Others, The question which was considered in the above case, was as to whether degree of Shiksha Visharad given by Hindi Sahitya Sammelan is equivalent to be treated as B.Ed, degree. This Court after considering the provisions of the National Council for Teachers Education Act, 1993 came to the conclusion that degree of Shiksha Visharad from Hindi Sahitya Sammelan being not recognised by National Council for Teacher Education, cannot be held to be equivalent to B.Ed.

9. The petitioner has not brought any material on record to establish that degree of Madhyama (Visharad) of Hindi Sahitya Sammelan has been treated to be equivalent to Intermediate by the State of U.P. It is not disputed that for sending a candidate for B.T.C. Correspondence Course training minimum eligibility is Intermediate. Learned Counsel for the petitioner at the time of hearing produced a booklet issued by Hindi Sahitya Sammelan, Allahabad containing various letters issued by the State of UP., Government of India and several institutions regarding degrees issued by Hindi Sahitya Sammelan. Reliance has been placed by Counsel for the petitioner on a press note dated 18th February, 1970 issued by the Government of India along with which a list of organisations conducting different examinations have been issued. It is useful to quote the press note along with the table in so far as it is relevant:

ns" k ds fofHkUu Hkkxksa es dbZ LoSfPNd fgUnh laLFkk,a cgqr nsj ls fgUnh ijh{kksvksa dk lapkyu djrh vk jgh gS A bu ijh{kksvks dks ikL djus okys mEehnokjksa dks ,slh ljdkj ukSdfj;ksa ds fy, ftuds fy, fgUnh dh ;ksX;rk,a Hkh fu/kkZfjr dh xbZ gS A ik= cukus ds mn~ns"; ls Hkkjr ljdkj us fgUnh f" k{k lfejr dh flQkfj" k ij vkSj ykds Isok vk;skx dh lgefr ls bu laLFkkvks dh dqNsd ijh{kksvks dks ekU;rk nh vkSj bl laca/k esa 1960 esa ,d izsl foKfIr tkjh dh xbZ A bu ijh{kksvksa esa ls dqN dh ekU;rk vof/k le; & le; ij ckdj f" k{k }kjk 31 fnIEcj 1969 rd ck nh xbZ A

fgUnh f" k{k lfejr us tks fd fgUnh ds izpkj vkSj fodkl ls lacf/kr ekeyks ij Hkkjr ljdkj dks ijke" kZ nsus ds fy, ,d mPp vf/kdkj izkIr lfejr gS] us 19 vkSj 20 vizSy] 1969 dks viuh 21 oha cSBd esa ;g flQkfj" k dh Fkh fd bu LoSfPNd fgUnh laLFkkvks }kjk tks ijh{kks,a fiNys 10 o" kksZ ls pykbZ tk jgh gS vkSj ftUgs Hkkjr ljdkj }kjk fiNys 5 o" kksZ ls ekU;rk feyrh vk jgh gS vkSj mUgs LFkk;h vk/kkj ij ekU;rk ns nh tk, ijUrq "krZ ;g gS fd ,slh laLFkkvks dk gj o" kZ fujh{k.k fd;k tk, vkSj ;fn fujh{k.k dh le; muds dk;Z dksbZ vfu;ferrk ns[kus esa vk;s rks ekU;rk okil ysus d laca/k eas dk;Zokgh dh tk, A fgUnh f" k{k lfejr }kjk dh xbZ ;g flQkfj" k Hkkjr ljdkj }kjk Lohdkj District Judge yh xbZ gS vkSj la?k ykds Isok vk;skx ds ijke" kZ ls vuqca/k esa nh x;h ijh{kksvks dks Hkkjr ljdkj us LFkk;h vk/kkj ij ekU;rk nsus dk fu" p; fd;k gS A

;g iqu% Li" V fd;k tkrk gS fd ekU;rk dsoy led{k ijh{kks ds fy, fu/kkZfjr fgUnh ds Lrj rd dh lhfer gS vkSj bls ml iw.kZ izek.ki= @ fMxzh ijh{kks ftlds fgUnh Lrj ds led{k bls fn[kk;k x;k gS] ds cjkj ugha ekuk tk,xk A

Hkkjr ljdkj f" k{k rFkk lekt&dY;k.k ea=ky; ua0 7&50@69@,p0&1] fnukad 18

Qjojh] 1970

dz0 la0

laLFkk dk uke

ijh{kk dk uke ftls ekU;rk nh xbZ

Cjkcj ijh{kk ds fy, fu/kkZfjr fgUnh dk Lrj

1

fgUnh lkfgR; lEesyu ?iz;kx? bykgkckn

izFkek

e/;ek ?fo"kkjn?

mRrek ?fgUnh lkfgR;?

,l0,y0lh0

ch0,0

ch0,0 ?vkulZ fgUnh?

10. A perusal of the above press note relied by Counsel for the petitioner, itself indicates that examination from Hindi organisations is recognised for standard of Hindi prescribed in the equivalent examination. The last paragraph of the press note issued by the Government of India, as quoted above, clearly clarifies that the recognition of this examination is in regard to standard of Hindi prescribed in the equivalent Hindi examination and it is not to be treated as equivalent to full fledged certificate of degree of examination. A copy of the Government order issued by the State of UP. dated 5th December, 1989 has also been relied by Counsel for the petitioner, which was issued in reference to letter dated 12th August, 1988 of the Government of India regarding examinations conducted by Hindi organisations. The Government order dated 5th December, 1989 clearly clarifies that degree of Madhyama (Visharad) issued by Hindi Sahitya Sammelan is equivalent only for standard of Hindi up to that examination and not equivalent to degree or certificate. In this context it is also relevant to refer to provisions of Regulations framed under the UP. Intermediate Education Act, 1921. For the Intermediate examination, which is conducted by Madhyamik Shiksha Parishad, UP. several degrees from different organisation and Universities throughout the country have been mentioned in Chapter-XIV of the regulations and none of the degrees or certificate issued by Hindi Sahitya Sammelan, Prayag has been treated to be equivalent to High School so as to make such candidates eligible to take admission in the Intermediate examination whereas the Purva Madhyamik Examination of Sampurnanand Viswavidyalaya, Varanasi and the examination of Visharad from Kashi Vidya Peeth, Varanasi have been mentioned as equivalent to

High School. The B.T.C. Correspondence Course training is imparted to untrained teachers so as to make them eligible for entitlement of trained grades of teachers. The qualification of Intermediate required is for purposes of appointment and the petitioner was required to fulfil the Intermediate qualification for purposes of appointment or imparting B.T.C. Correspondence Course training for becoming entitled to trained grade of Assistant Teacher. Thus the qualification required for appointment of Assistant Teacher is full fledged certificate of Intermediate and the degree of Madhyama (Visharad) issued by Hindi Sahitya Sammelan cannot be treated to be equivalent to Intermediate examination.

11. The petitioner, thus, has failed to substantiate that degree of Madhyama (Visharad) granted by Hindi Sahitya Sammelan to the petitioner in the year 1990 is equivalent to Intermediate Examination. One more fact which is relevant to be noticed, is that petitioner himself appeared in the Intermediate examination conducted by U.P. Madhyamik Shiksha Parishad and has passed the same in the year 1997. Had his degree of Madhyama (Visharad) from Hindi Sahitya Sammelan equivalent to Intermediate, there was no occasion for the petitioner to pass Intermediate examination of U.P. Madhyamik Shiksha Parishad in the year 1997.

12. From the aforesaid, it is clear that petitioner cannot be said to be having qualification of Intermediate at the time when his name was recommended by Basic Shiksha Adhikari for B.T.C. Correspondence Course training, i.e., in the year 1995-96 and the respondents' submission has substance that petitioner was not admitted for training in spite of his being recommended due to the reason that he did not possess the qualification of Intermediate. The petitioner being not eligible for imparting training, the petitioner is not entitled for any relief as claimed in the writ petition. In so far as petitioner's submission that respondent No. 7 got his name inserted illegally and got training whereas his name was not mentioned in the letter dated 24th July, 1995, suffice it to say that the respondents in the counter affidavit have brought on the record letter dated 1st August, 1995 by which name of respondent No. 7 was forwarded for training.

In the result, the writ petition fails and is dismissed.

Parties shall bear their own costs.