

(2019) 05 UK CK 0253

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1750 Of 2013

Rabia Begum

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 24-05-2019

Acts Referred:

Citation : (2019) 05 UK CK 0253

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Avidit Noliyal, Prabha Naithani, Vijay Khanduri, Bina Pandey

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J

1. Under a Government policy candidates who had B.Ed qualification were permitted to undergo Special B.T.C. course in order to train them in elementary education so that elementary education teachers in elementary school be manned by trained teachers. The petitioner before this Court initially procured admission in special B.T.C course. There was, however, an upper age limit fixed for such training which at the relevant time was 40 years. The entire dispute in this case is as to the age of the present petitioner.

2. On 09.07.2006, the Government of Uttarakhand issued an advertisement inviting applications from the eligible candidates who had done their B.Ed. course, for undergoing special B.T.C. training. As per the said advertisement, the upper age limit for a candidate to undergo training was 40 years as on 09.07.2006.

3. The petitioner applied for the said training after furnishing certificates including high school certificate issued by "Madhyamik Shiksha Parishad Uttar Pradesh", according to which the date of birth of the petitioner was 10.01.1970. The petitioner was given admission, but while she was undergoing the training,

on an inquiry instituted by the Government it was found that the actual date of birth of the petitioner as per high school certificate is 10.01.1966 and she has wrongly submitted the certificate which shows her date of birth as 10.01.1970.

Her candidature was therefore rejected vide order dated 06.03.2009. This order dated 06.03.2009 was challenged by the petitioner before a learned Single Judge of this Court in Writ Petition (S/S) No.255 of 2009. Initially on 17.03.2009 an interim order was passed by a learned Single Judge of this Court, permitting the petitioner to appear in the examination. The writ petition remained pending. Although there was no order of this Court for declaring the result of the petitioner, it appears that the result of the petitioner was also declared and subsequently the petitioner was appointed as Assistant Teacher on 16.10.2009. Vide order dated 10.09.2012 Writ Petition (S/S) No.255 of 2009 was finally disposed by this Court with the following direction:-

7. Learned Brief Holder for the State is not in a position to inform the Court how the petitioner was appointed on the said post. Since the respondent no.2 has issued appointment order permitting the petitioner to join and work in the said institution, I direct the respondents to make payment of salary to the petitioner for the period she has worked in the institution/till she continues as such. The arrears of salary shall be paid to the petitioner within a period of three weeks from the date of production of a certified copy of this order.

8. This disposes of the writ petition.

9. All the pending applications stand disposed of.

4. Thereafter, the petitioner moved modification application in the said writ petition, which was disposed by the learned Single Judge vide order dated 12.10.2012 with a direction to the competent authority to afford an opportunity of hearing to the petitioner before taking any final decision in the matter.

5. Consequently, the matter came up before the Director of Education who after giving personal hearing to the petitioner came to the conclusion that the petitioner has undertaken the training and has secured appointment as Assistant Teacher in Government School on the basis of a forged and fabricated document which showed her date of birth as 10.01.1966, whereas in an inquiry it has categorically come that her actual date of birth is 10.01.1970. The Director of Education, therefore, directed the concerned Appointing Authority, which was the District Education Authority to take appropriate action. The Appointing Authority, in turn, vide order dated 16.08.2013 terminated the services of the petitioner.

6. At this juncture, it may also be relevant to note that by interim order passed by this Court the petitioner has also received the salary for the period she has worked as Assistant Teacher. She has not been serving as an Assistant Teacher since 16.08.2013.

7. The document which the petitioner has annexed before this Court is apparently a forged and fabricated document. Before this Court, there are two

high school certificates of the petitioner which the learned counsel for the petitioner candidly admits that both belong to her. In one high school certificate issued by the "Madhyamik Shiksha Parishad Uttar Pradesh" her date of birth is shown to be 10.01.1966, whereas in the other certificate which the petitioner has filed of the same "Madhyamik Shiksha Parishad Uttar Pradesh" her date of birth is shown as 10.01.1970. She has also filed date of birth certificate which has been issued on 18.2.2009 by Nagar Palika Parishad, Kashipur. Apparently it appears to be forged and fabricated document. This is also verified from the fact that the petitioner has also filed a suit for declaration being Suit No.70/2016 which is pending before the Civil Judge (Junior Division) Kashipur, Udham Singh Nagar where she has sought that her date of birth be declared as 01.07.1970.

8. Prima facie this is nothing but a case of fraud! Definitely, the respondents while terminating the services of the petitioner have not followed the procedure in its letter and spirit, inasmuch as the procedure as laid down in Uttarakhand Government Servant (Discipline & Appeal) Rules, 2003 has not been followed and a departmental inquiry has not been instituted as contemplated under the Rules. But a judicial notice is also taken of the fact that the petitioner apparently submitted a forged and fabricated document and not only has tried to dupe the State and the instrumentality of the State and its authorities but has also played fraud upon this Court. Fraud vitiates everything.

9. In view thereof there is no alternative but to dismiss the writ petition. The writ petition is hereby dismissed with a direction to the Secretary Education to institute an inquiry in this matter on the aspect that as to under what circumstances the date of birth certificate dated 18.02.2009 has been issued to the petitioner and in case it is found that the same has been issued wrongly, suitable action be taken against the responsible employee/officer in accordance with law. A preliminary inquiry be conducted against the petitioner after gathering the entire facts and if there is sufficient material before the concerned authorities, let appropriate proceedings be initiated against the petitioner in accordance with law.

10. The writ petition is dismissed with a cost of Rs.10,000/- (Rupees Ten Thousand Only) which shall be deposited within two weeks from the date of production of a certified copy of this order or else it shall be recovered as arrears of land revenue from the petitioner. Let a copy of this order be given to the learned State Counsel free of cost for onward compliance.