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**(2009) 03 AHC CK 0151**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 10340 of 2009

Ram Tapeswar Kushwaha

APPELLANT

Vs

State of U.P.And Others

RESPONDENT

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**Date of Decision :** 05-03-2009

**Acts Referred:**

**Citation :** (2009) 03 AHC CK 0151

**Hon'ble Judges :** S.U.Khan, J

**Final Decision :** Dismissed

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## **Judgement**

S.U. Khan, J.—Heard learned counsel for the petitioner, learned Standing Counsel for respondent Nos. 1 and 3 and learned counsel for the respondent No. 2, U.P. Secondary Education Services Selection Board, Allahabad.

2. This writ petition is directed against recommendation/panel dated 24.1.2009 sent by the Selection Board, which is Annexure7 to the writ petition. Through the said recommendation/panel, Sri Madhav Prasad Singh, respondent No. 5 in this writ petition after being selected has been sent for being appointed as Principal in the college in question, i.e. Baba Indramani Uchchattar Madhyamik Vidyalay Tikar, District Deoria. Petitioner is working as ad hoc Principal by virtue of being senior most lecturer since 1998. Argument of learned counsel for the petitioner is that a Government Order dated 9.1.2009, copy of which is Annexure6 to the writ petition, has imposed ban upon (stayed) the further proceedings in respect of selection of Principals by the Selection Board as the Government is considering to regularise the services of officiating Principals in secondary schools/colleges. Learned counsel for the petitioner further states that an Act amending/adding requisite provision for regularisation in U.P. Secondary Education Service Selection Board Act, 1982 is also in the officiating and likely to be passed by the legislature very soon. Learned counsel therefore argues that if respondent No. 5 joins then chances are that claim of petitioner for regularisation would come to an end.

3. However, in the Government Order dated 9.1.2009, Annexure6 to the writ

petition, at the top under the heading "subject", it is mentioned that it is in relation to advertisements No. 1 of 2008 and 2 of 2008 issued by the Selection Board. Thereafter, it is mentioned that Government is considering the regularisation of ad hoc principals. Thereafter, in Para2, it is directed that on the advertised posts of the principals, no further proceedings for selection should be taken until Government takes a decision thereupon. Accordingly, the correct interpretation of the said G.O. is that the selection process initiated by advertisements No. 1 and 2, both of 2008 shall be stopped/stayed. As far as respondent No. 5 is concerned, he was selected in the selection process, which was started in the year 2002. Learned counsel for the Selection Board states that in view of pendency of Balbir Kaur's case before the Supreme Court where status quo order had been passed, selected candidates in the selection process initiated through advertisements No. 1 and 2, both of 2002 were not sent for joining to the respective schools. The Supreme Court has decided the said case in May, 2005 and the judgment is reported in Balbir Kaur and another v. U.P. Secondary Education Service Selection Board, Allahabad, 2008 (3) ESC 409. Learned counsel for the petitioner has argued that the status quo order granted by the Supreme Court in Balbir's case was applicable only to the parties in the said case and as respondent No. 5 and petitioner were not party in any of the cases decided through said judgment, hence stay order was not applicable and there was no bar against appointment of respondent No. 5 in the school in question. Legally stay order operates only in respect of the parties to the case. However, several cases were pending before the Supreme Court and from the perusal of the reported judgment of Balbir Kaur, it appears that some contempt petition was also pending. Accordingly, if the Commission/ Selection Board decided not to declare the result or not to send the selected candidates for appointment, no fault can be found with such action. In the said judgment (of Balbir Kaur), it is also mentioned that some matters were pending before the High Court also in which stay orders had been passed. Accordingly, in my opinion G.O. dated 9.1.2009 does not prevent the Selection Board from sending the name of respondent No. 5 and does not prevent respondent No. 5 from joining the post of Principal in college in question.

4. The writ petition is therefore dismissed.