

(2009) 07 AHC CK 0144
In the Allahabad High Court

Ravi Kant S/O Ram Manohar Pandey & Anr.(S/S 1512/2009)	APPELLANT
Vs	
Joint Director Education, Vi Region Lucknow & Ors.	RESPONDENT

Date of Decision : 20-07-2009

Acts Referred:

Citation : (2009) 07 AHC CK 0144

Hon'ble Judges : Chandramauli Kumar Prasad, CJ and Devendra Kumar Arora, J

Final Decision : Allowed

Judgement

1. The writ petitionersappellants, aggrieved by the order dated 5.3.2009, passed by the learned Single Judge in Writ Petition No.1512 (SS) of 2009, have preferred this appeal under Rule 5 of Chapter VIII of the Allahabad High Court Rules.

2. Short facts giving rise to the present appeal are that the writ petitionersappellants (hereinafter referred to as the petitioners) alongwith respondents 5 to 9 were candidates for appointment to a Class IV post in Jawaharlal Nehru Intermediate College, situated in the District of Unnao. The petitioners filed writ application earlier, inter alia, alleging that relatives of the Principal, Members of the Committee of Management as well as District Inspector of Schools are candidates for appointment and they are not eligible. It was further alleged that all those relatives have been recommended for appointment.

3. Aforesaid writ application was registered as Writ Petition No.616 (SS) of 2009 (Ravi Kant and another versus Joint Director of Education, VI Region, Lucknow and others). By order dated 27th of January, 2009, this court disposed of the writ application with a direction to the Joint Director to look into the aforesaid allegation of the petitioners. It is the case of the petitioners that in the light of the aforesaid order, they filed representation specifically alleging the relationship between the selected candidates and the Principal and the Members of the Committee of Management. In the light of the order of this court, the Joint Director considered the matter and by order dated 13.2.2009, recorded a finding that selected candidates are not related either to the District Inspector of

Schools, Principal of the School or the Committee of Management of the School.

4. Petitioners challenged the aforesaid order in the writ application, which has been dismissed by the impugned order. While dismissing the writ application, this court observed as follow:

"Be that as it may, since it is a disputed question of fact, therefore, the writ petition is not maintainable.

5. However, it is incumbent upon the authority to look into it that the persons appointed have been appointed after the prescribed procedure as provided in law and they are within the prescribed age."

6. It is the case of the petitioners that before taking decision, they were not associated with the enquiry.

7. Mr.Sandeep Dixit, appearing on behalf of the appellants submits that as the matter was to be enquired into under the orders of the court on the allegation made by the petitioners, the Joint Director ought to have associated them in the enquiry. He submits that in a slip shod manner, without giving any notice to the petitioners and by just calling a report, the Joint Director has recorded his finding. He submits that the order of this court in writ application, filed by the petitioners earlier, has not been carried out in true spirit.

8. Despite service of notices on respondents 3 to 9, nobody has chosen to appear on their behalf. However, Mrs. Sangeeta Chandra appears on behalf of respondents 1 and 2.

9. We find substance in the submission of Mr.Dixit. This court by its earlier order dated 27.1.2009 directed the Joint Director to look into the allegations made by the petitioners. The petitioners in their representation have specifically alleged the relationship between the selected candidates, Principal and the Members of the Committee of Management and the District Inspector of Schools. The Joint Director had not given any opportunity to the petitioners nor recorded any finding in regard to the allegation made by the petitioners. In our opinion, the writ application did not involve any disputed question of fact. In our opinion, the Joint Director has not carried out the order of this court in its true spirit. In view of the order of this court, he was obliged to associate the petitioners with the enquiry and record finding on its allegation.

10. The Joint Director having not done so, his order is vitiated on this count alone.

11. We are of the opinion that the learned Single Judge committed error in dismissing the writ application.

12. The petitioners shall now appear before the Joint Director within two weeks from today and bring to his notice all the materials, which they are in possession on the issue in question. The Joint Director after affording opportunity to all persons concerned, shall pass order within two months from the date the

application is filed. Needless to state that the appointment of the respondents 5 to 9 shall abide by the decision of the Joint Director.

13. In the result, the appeal as also the writ petition are allowed, the impugned order dated 5.3.2009 of the learned Single Judge is set aside so also the order dated 13.2.2009 passed by the Joint Director of Education, VI Region, Lucknow, with the observation aforesaid.

14. No cost.28