
(2006) 11 UK CK 0042
In the Uttarakhand High Court

Shishupal Singh Bhandari

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 16-11-2006

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2007) 1 AWC 980 : (2007) 1 UD 1

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prafulla C. Pant, J.—By means of this petition, moved under Article 226 of the Constitution of India, the petitioner has sought writ in the nature of certiorari quashing the advertisement dated 1.12.2003 (Annexure-8 to the writ petition) issued by respondent No. 3, for appointment of Shiksha Mitra in Primary School village Nilarhi in district Chamoli.

2. Heard learned Counsel for the parties and perused the record.

3. Brief facts of the case, as narrated in the writ petition, are that the State Government had taken a policy decision to appoint educated local unemployed youths in primary schools as Shiksha Mitra, and for that purpose issued a Government order dated 472/Maa. Sa. V1./9-1-89/2000 dated 27.1.2001. The respondent No. 2 Basic Shiksha Adhikari vide his letter dated 3.7.2003, informed the Pradhan/Adhyaksha, Gram Shiksha Samiti, Gram Panchayat Nilarhi, respondent No. 3, to make recommendation for the appointment of petitioner as Shiksha Mitra in the primary school Nilarhi. Pursuant to said letter, respondent No. 3 issued an advertisement dated 11.7.2003, inviting applications from the local village panchayat unemployed youths for appointment for the post of Shiksha Mitra. Petitioner being qualified for the appointment moved an application for being appointed as Shiksha Mitra, in aforesaid school. However, it is admitted to the petitioner in the writ petition, that he belongs to village

Devpuri, which is, though, not in the same village panchayat, but, part of the Nyaya Panchayat Harmani of district Chamoli. Last date of submission of application forms was 20.7.2003, and the respondent No. 3 submitted its recommendations to respondent Nos. 1 and 2, for their approval before the appointment. The respondent No. 2, instead of approving name of the petitioner asked the respondent No. 3 to appoint one Km. Arti, who was resident of same village, i.e., Nilarhi. The petitioner's case is this that Km. Arti did not apply in pursuance to advertisement dated 11.7.2003. When the petitioner's name was not approved, the respondent No. 3, readvertised the post of Shiksha Mitra on 1.12.2003, which has been challenged by the petitioner through this writ petition.

4. Respondent Nos. 1 and 2 contested the writ petition and filed their counter-affidavit, in which it has been stated that the scheme of Shiksha Mitra was introduced to give employment to the local educated unemployed youths and Km. Arti was eligible for said appointment. Defending disapproval of the petitioner's name, it is stated in the counter-affidavit that the petitioner did not belong to the village Panchayat of Nilarhi and Km. Arti, who belongs to said village, was eligible for appointment, and she had a preferential right to be appointed. It is further stated in the counter-affidavit that the respondent No. 3 Gram Shiksha Samiti, Village Panchayat Nilarhi, forwarded name of the petitioner, ignoring the claims of the local unemployed educated youths. It is also stated on behalf of the respondents that Km. Arti made a complaint to respondent No. 2, regarding the irregularities committed by respondent No. 3. The recommendation of respondent No. 3, according to the contesting respondents, was against the rules.

5. For the reasons best known to the petitioner he has not Impleaded Km. Arti, as a respondent In the case, though, he has mentioned In para 11 of the petition, that his approval is in fact denied on the ground that respondent No, 3 ignored claim of Km. Arti of village Nilarhi.

6. Learned Counsel for the petitioner argued that respondent No. 2 should have approved the recommendation of respondent No. 3, when said name was recommended by it, for appointment as Shiksha Mitra. Said recommendation has been annexed at page 19 of the paper book, as a part of Annexure-4, to the writ petition. Perusal of this document Itself shows that only one name is mentioned in said document, and it is nowhere mentioned that the local unemployed qualified person is available, or not. This is exactly the complaint of Km. Arti, against the recommendation of the Committee, to respondent No. 2, as is clear from paper No. 18, which is part of Annexure-3 to the counter-affidavit. In said complaint Km. Arti has alleged that she was told by Village Panchayat that the post is meant for males only, and she was misguided by the Village Panchayat. She has further asserted in the complaint that she not only belongs to village Nilarhi, but also possesses requisite qualification for her appointment as Shiksha Mitra.

7. In the above circumstances, it cannot be said that respondent No. 2 has

committed any error of law or that of fact, in not approving the name of the petitioner for his appointment for the post of Siksha Mitra, for the year 2003-04, for which the petitioner was a candidate.

8. For the reasons as discussed above, this petition has no force and the same is liable to be dismissed. The writ petition is dismissed. Interim order dated 9.12.2003 is hereby vacated. (All pending applications in this petition also stand disposed of).