
(1993) 05 AHC CK 0003
In the Allahabad High Court
Case No : Writ Petition No. 15626 of 1993

Shyam Salona Singh

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

Date of Decision : 04-05-1993

Acts Referred:

Evidence Act, 1872 — Section 115

Citation : (1993) 3 AWC 1463 : (1993) 3 UPLBEC 1649

Hon'ble Judges : Ravi S. Dhavan, J

Bench : Single Bench

Advocate : P.S. Baghel, for the Appellant; Ganga Prasad, for the Respondent

Final Decision : Allowed

Judgement

Ravi S. Dhavan, J.—Shyam Salona Singh, an officiating Principal at the Public Intermediate College, Manauri, Allahabad has filed the present petition challenging the order of the District Inspector of Schools dated 29 April, 1993 (Annexure 11, to the writ petition) on the ground that the Respondent No. 3 admittedly the seniormost Lecturer, cannot act as an officiating Principal. Fortunately, at the time of presentation of this petition, appearance has been entered on behalf of the Respondent No. 3. Thus, the person who, in fact, may be affected, is present before the Court and this petition can be decided at the admission stage.

2. Heard learned Counsel for the Petitioner. Mr. P.S. Baghel, learned Standing Counsel and Mr. Ganga Prasad. Advocate, appearing for the Respondent No. 3.

3. There is no issue that the Respondent No. 3, Bal Krishna Agrawal, Is not the seniormost Leoturer. The Petitioner accepts that he Is not the seniormost Leoturer and further, accepts that the Respondent No. 3 is the seniormost Lecturer, while the Respondent No. 3 also accepts that he had given in writing three letters appended to the petition, indicating to the management that he permits his status to act as officiating Principal to be Ignored, and. thereby,

accepting that the management could make other arrangements. The only alternative to the management, at that time, was to ask the next seniormost teacher, i.e. the Petitioner, to act as the officiating Principal. Respondent no 3 has been refusing to act as an officiating Principal since 1 June, 1989, for more than three years. The Petitioner has been acting as officiating Principal w.e f 14 May, 1990, almost three years. Thus, the Petitioner understood that he was the officiating Principal and the Respondent No. 3 also accepted the situation, permitting (a) the Petitioner to act as an officiating Principal and (b) declining to act as such. In these circumstances, the principle of Section 115 of the Evidence Act, 1872, applies to the circumstances of, and issue in, the present petition.

4. Whatever be the reason, it is contended on behalf of the Respondent No. 3 that now he has changed his mind because of certain circumstances and that his lien as the seniormost teacher cannot be disturbed. On his first submission, there is an issue in law. On his second submission, there can be no issue the fact that the Respondent no 3 is the seniormost teacher, his seniority cannot be jeopardised.

3 Thus, the only issue which remains is that if the Petitioner has, in equity and in law, been permitted to act as the officiating Principal for three long years, he ought not to be dislodged, until the District Inspector of Schools, Respondent No. 1, gives him a reasonable opportunity, before pulling the chair under him. On this aspect, the learned Counsel who appears on behalf of the Respondent No. 3, Mr. Ganga Prasad, Advocate, agrees. He made an issue of the fact that the Respondent No. 3 has, in fact, permitted the situation and circumstances so that the Petitioner could act as the officiating Principal.

6. In these circumstances, without going into the merits of the rival claims, has, accepting the situation on which there is no issue, that the Petitioner has not been heard, though appointed Principal validly, it would be appropriate that the District Inspector of Schools adjudicates on the issue, today, between the Petitioner and the Respondent No. 3. But this, dispute cannot be permitted to linger as it would not be appropriate, in the interest of administration of an educational institution, to have the two seniormost teachers fighting for the post of the officiating or ad hoc Principal. Thus, on or before 8 June, 1993 and on any date in between, i.e. from today and 8 June, the District Inspector of Schools will give a date to the Petitioner as well as the Respondent No. 3, hear them and give his considered reasons, whatever they may be and ought to be, in the circumstances. Whatever the decision the District Inspector of Schools takes, he will do so objectively and record reasons for them. Until then, his order of 29 April, 1993 (Annexure 11 to the writ petition) shall remain in abeyance.

7. The petition, in the circumstances, succeeds and is laid to rest and consigned to the record, without order on costs.