

(1996) 01 AHC CK 0067
In the Allahabad High Court
Case No : Writ Petition No. 3938 of 1984

Siya Ram

APPELLANT

Vs

U.P.Madhyamik Shiksha Sewa Ayog & Others

RESPONDENT

Date of Decision : 10-01-1996

Acts Referred:

Citation : (1996) 01 AHC CK 0067

Hon'ble Judges : S.C.Verma, J

Final Decision : Allowed

Judgement

S.C. Verma, J.—The petitioner, aggrieved by his selection and being placed at serial number 2 in the panel by the U.P. Secondary Education Service Commission, has challenged the selection and he recommendation of the names of the candidates in the selected panel dated 22.6.1984, in the present writ petition under Article 226 of the Constitution of India.

2. The institution Sanatan Dharm Inter College, Hardoi is a recognised institution under the provisions of U.P. Intermediate Education Act and the provisions of U.P. Secondary Education Service Commission and Board Act, were also applicable. Permanent vacancies on the post of Lecturer, in Economics and Lecturer in Hindi occurred at the institution and requisition was sent for regular selection by the institution as also by the District Inspector of Schools to the Commission. On the basis of the above requisition, an advertisement was made in daily newspaper "Swatantra Bharat" dated 10 September, 1983. In the advertisement these posts were shown as general category posts and there was no mention in the notification that the above posts are reserved for schedule caste candidates.

3. The petitioner who fulfilled the requisite qualifications and who was also given ad hoc appointment on the post of Lecturer in Economics at the institution Sanatan Dharm Inter College, Hardoi applied for selection in pursuance to the above advertisement. The petitioner also represented to the U.P. Secondary Education Service Commission that two posts are liable to be reserved for scheduled caste candidate at the institution and no scheduled caste candidate

has been appointed on any of the posts of Lecturers. The U.P. Secondary Education Service Commission by letter dated March, 1984 sent the representation to the District Inspector of Schools, Hardoi for necessary action and it was also indicated in forwarding letter that the advertisement was issued in accordance with the proforma submitted by the Deputy Director of Education.

4. It appears that no action was taken on the representation of the petitioner either by the institution or by the Deputy Director of Education or by the District Inspector of Schools or even by the U.P. Secondary Education Service Commission. The selections were held and the petitioner also appeared in the selection. The names of the selected candidates were recommended through a panel which was sent alongwith the forwarding letter dated 22.2.1984, to the Regional Deputy Director of Education. The name of the petitioner has been shown in the above panel at serial number No. 2.

5. Aggrieved, the petitioner filed the present writ petition in which it has been specifically stated that there were 11 sanctioned posts of Lecturers at the Institution and according to Government Notification reserving 18% posts for scheduled caste candidates, two posts fell in the quota of scheduled caste. It has further been stated that in the above institution there is no scheduled caste candidate appointed in the lecturer's grade and the above posts for which regular selection is being made, were liable to be reserved for scheduled caste. As the selection has been made, inspite of the petitioner's protest and without taking any decision, the entire selection is vitiated and is liable to be set aside on this ground alone.

6. Counter affidavit has been filed by the institution in which it is admitted that there were 32 posts of teachers sanctioned at the institution but there is no specific reply with regard to the number of posts of lecturers and the reservation for scheduled caste candidates in accordance with the Government order. As regards the non consideration of the representation of the petitioner submitted in this regard to the service Commission, it has been stated that the representation is undated and the institution did not receive any copy of the representation and they were not asked to give any reply or comment. It has also been alleged that the petitioner who was working at the institution should have pursued the representation and could have obtained some orders on the same. The institution, however, did not place on record any material to establish that the above posts were not liable to be reserved for scheduled caste candidates and as to why in the requisition sent by the institution, the posts have been treated to be of general category and not for scheduled caste candidates.

7. In the counter affidavit filed on behalf of U.P. Secondary Education Service Commission it has been indicated that the representation of the petitioner could have easily got the correction done at the institution or by the District Inspector of Schools being present at the, local level. The petitioner having appeared in the Selection and having been placed on merit at serial no. 2 cannot agitate the above issue at this stage.

8. I have heard Sri S.K. Mehrotra in support of the petition who has very fairly pressed only this point raised in the petition and he submitted that from the material on record, it is established that the disputed posts are liable to be reserved for schedule caste candidates and as the selection was made for the general category candidate, the entire selection proceedings vitiated and the selection is liable to be quashed.

9. The learned counsel for the petitioner further pointed out that the averments with regard to the number of posts of Lecturer sanctioned at the institution have not been denied nor the Government order reserving 18% posts for scheduled caste have been contested in any of the counter affidavit filed by the respondents. The learned counsel submitted that in view of the reservation prescribed in the Government order, in any view of the matter, two posts of Lecturers at the Institution are liable to be reserved for scheduled caste candidates.

10. I find sufficient force in the arguments of learned counsel for the petitioner. On perusal of record it is established that there were 11 posts of lecturers sanctioned at the institution which has not been controverted by the respondents. If for some reason, best known to the institution they submitted the requisition in violation of the Government order reserving 18% posts for scheduled caste candidates, the entire selection is liable to be set aside. From the above facts, it is established that two posts have to be reserved for scheduled caste candidates as there was no scheduled caste candidate appointed on any of the lecturer's post at the institution nor any explanation has been given as to why the appointments have not been made. Further, in any view of the matter, in the event of vacancies, consideration has to be done with regard to the Government order providing for 18% reservation of seats and posts should have been reserved for scheduled caste candidates. The Educational Authorities including the institution were responsible for not placing the correct position before the Commission and for this lapse and lacuna the entire selection is liable to be quashed.

11. The writ petition is allowed. The selection to the post of Lecturer in Economics and the panel submitted by U.P. Secondary Education Service Commission through the letter dated 22.6.1984 contained in AnnexureB is quashed in so far as it relates to the post of lecturer in Economics.

(Petition allowed)