
(2008) 02 AHC CK 0057
In the Allahabad High Court

Smt. Meera Pandey

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 19-02-2008

Acts Referred:

Citation : (2008) 6 AWC 5800 : (2008) 2 UPLBEC 97

Hon'ble Judges : Vineet Saran, J;S. Rafat Alam, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S. Rafat Alam and Vineet Saran, JJ.—In the year 2004 the vacancy of Shiksha Mitra was notified in the village Hathiwadatal, Post and Block Uska Bazaar, Tehsil Navgarh, District Siddharth Nagar. The appellant applied for the same. Since no eligible candidate of the said village in question was available for such appointment, the application of the appellant, who was a resident of a different village, but of same Nyaya Panchayat, was considered. She was found eligible and suitable for the post and was thus given appointment as Shiksha Mitra for the academic session 2004-05, which was also renewed from time to time up till the academic session 2007-08.

2. However, by now, respondent No. 5, who belongs to same village, became eligible for being considered and appointed as Shiksha Mitra. Thus, she raised objection to the renewal of the appellant's appointment. When the same was not considered, she preferred Civil Misc. Writ Petition No. 14334 of 2007, which was disposed of with the direction to the District Magistrate to decide her representation. By the order dated 12.12.2007 the District Magistrate allowed her representation and cancelled the appointment of the appellant and directed that fresh selection be made for the appointment of Shiksha Mitra for the village in question. Aggrieved by the said order the appellant filed Civil Misc. Writ Petition No. 3471 of 2008. The Hon'ble Single Judge, vide judgment and order dated 18.1.2008, allowed the same and set aside the aforesaid order of the District Magistrate. By the said order the petitioner-appellant has, however, been

permitted to work as Shiksha Mitra till the end of academic session 2007-08, whereafter the District Level Committee was to ensure fresh appointment on the post of Shiksha Mitra for the next session. It was, however, made clear by the writ court that the renewal of the petitioner would not take place after the end of academic session 2007-08. It is this latter part of the judgment and order dated 18.1.2008 relating to his non-consideration of renewal, by which the appellant is aggrieved and hence, this special appeal.

3. Heard Shri Indra Raj Singh, learned Counsel for the appellant; learned Standing Counsel appearing for respondent Nos. 1, 2 & 4; Shri Anuj Kumar, learned Counsel appearing for respondent No. 3 and Shri T.S. Shukla, learned Counsel appearing for the contesting-respondent No. 5 and also perused the record.

4. The submission of the appellant is that as per the scheme relating to the appointment of Shiksha Mitra issued on 1.7.2001, which is still applicable, a Shiksha Mitra, once appointed, would be entitled to be considered for renewal, as long as his work and conduct is found satisfactory. Learned Counsel for the appellant, thus, contended that since the work and conduct of the appellant has been found satisfactory, she is entitled to renewal for the subsequent year also and the direction issued by the Hon'ble Single Judge for not considering the renewal of the appellant after the academic session 2007-08 was uncalled for and against the provisions of the scheme.

5. Shri T.S. Shukla, learned Counsel appearing for the contesting-respondent No. 5, however, submitted that the appellant was appointed because at the relevant time there was no eligible person belonging to the village in question available for such appointment, and once the eligible candidate of the same village is available, the claim of the appellant, who belongs to a different village, would no longer stand.

6. What is to be considered by us is as to whether once a person, who is appointed on the post of Shiksha Mitra, would be entitled to renewal for all time to come as long as his/her work and conduct is found satisfactory even if he/she may be from a different village and later a qualified and eligible person of the same village is available?

7. The appointment of the appellant, when made in the year 2004, was an exception to the general rule, as would clear from the scheme dated 1.7.2001 itself, which provides that the appointment of the Shiksha Mitra would be made from amongst the eligible persons of the village in question. Only in special circumstances, where no eligible person from the same village is available for such appointment, a person of a different village, but of the same Nyaya Panchayat, should be considered for appointment. As such, from a bare reading of the scheme, first priority is to be given to a person belonging to the same village. As an exception to the general rule and in special circumstances, as in the year 2004 no eligible person from the village in question was available, the

appellant was given appointment on the post of Shiksha Mitra.

8. Admittedly, the term of appointment of Shiksha Mitra is for one academic session, which starts from 1st July and continues up to the end of May of the subsequent year. For each academic session, fresh selection is to be made. For such purpose vacancies are advertised and fresh applications are to be invited. It is, however, provided under the scheme that in case the work and conduct of a person, who was working earlier, is found satisfactory, he would be entitled to renewal. When fresh applications for the subsequent year are invited and an eligible person of same village is available, then, as per the said scheme, the question of resorting to the exception clause under special circumstances, which provides for appointment to a person of different village, would not arise. If this is accepted, then the residents of the same village would virtually lose their chance for appointment because of the renewal clause, which cannot, and should not, be permitted as the same would be against the spirit of the scheme for appointment of Shiksha Mitra, which provides for priority to be given to a person belonging to the same village.

9. In the present case, in the year 2004 and thereafter up till prior to 2007-08, no eligible person of the same village was available for being given such appointment. Once respondent No. 5 or any other person, who is a resident of same village, is eligible and available for such appointment, the question of resorting to the exception clause, whereby in special circumstances a person belonging to different village should be given appointment, cannot be invoked.

10. The direction given in the order passed by the Hon"ble Single Judge for continuance of the appellant for the current year 2007-08 has rightly been issued, so that the education being imparted to the children of the village, may not be disturbed because of change of Shiksha Mitra in the middle of the academic session. The same is perfectly justified and equitable.

11. However, considering the fact that a person of same village is now available for appointment on the post of Shiksha Mitra, the question of renewal of the writ petitioner-appellant, who belongs to a different village and had earlier been given appointment under the exception clause, does not arise. Reliance placed by the learned Counsel for the appellant on the case of Smt. Neelam Singh v. State of U.P. and Ors. 2008 (1) ADJ 712 (DB) is of no help to the appellant, as it was in a different set of facts where such direction for renewal was given in a normal case when there were no such special circumstances, as in the present case.

12. For the foregoing reasons, we do not find any factual and legal error in the judgment of the Hon"ble Single Judge.

The special appeal, being without merit, is dismissed.