

(1996) 10 AHC CK 0003
In the Allahabad High Court
Case No : C.M.W.P. No. 10161 of 1996

Smt. Rekha Devi and Others	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 29-10-1996

Acts Referred:

Citation : (1996) 10 AHC CK 0003

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : Ashok Kumar and N.L. Srivastava, for the Appellant;

Judgement

M. Katju, J.—This writ petition has been filed against the impugned circular of the Director of Education (Basic), U.P., dated 17.1.96 Annexure-7 to the writ petition.

2. A large number of writ petitions have been filed on the same point and this judgment will cover all these petitions of similar nature whether they are listed today or not. I have heard Sri. Ashok Khare for the Petitioners and Sri. K.S. Shukla for the Basic Shiksha Parishad.

3. The Petitioners in the present petition are Assistant. Teachers in privately managed Junior High School and Primary Schools recognised by the Board of Basic Education, U.P. It is alleged in paragraph 2 of the writ petition that the Petitioner's institution is an unaided educational institution and payment of salary to the Petitioners are being made by the management through its own private funds. It is further alleged in paragraph 3 of the writ petition that the appointment of the Petitioners have been made with the approval of the District Basic Shiksha Adhikari, Fatehpur and all the Petitioners are functioning for several years. The names of the Petitioners were mentioned in the application of the institution for recognition made to the Board of Basic Education. The details of the Petitioners are given in Annexure-1 to the writ petition.

4. The Petitioners did not possess B.T.C. Training Certificate and were untrained teachers. The appointments of untrained teachers were made in view of the fact

that no trained teachers were available for appointment in the recognised unaided educational institutions.

5. The State Government by Government Order dated 6.9.94, true copy of which is Annexure-2 to the writ petition, directed that such untrained teachers may be permitted to join the two years B.T.C. correspondence course and after they pass, they can be given the trained teacher's grade. This Government Order was followed by an other Government Order dated 21.10.94 which repeats the same direction. However, subsequently by a circular of the Director of Education (Basic) U. P., dated 17.1.96. true copy of which is Annexure-7 to the writ petition. It was directed that this benefit will be given only to the untrained teachers in institutions directly run by the Basic Shiksha Parishad.

6. In my opinion, the Director of Education is subordinate to the Secretary, Education, U.P. Government, hence he cannot override the Government Order dated 6.9.94 Annexure-2 to the writ petition issued by the Secretary, Education. The Secretary to the Government is a higher authority than the Director and hence the Director cannot supersede the order of the Secretary, Education, U.P. Government.

7. Annexure CA-1 to the counter affidavit is a letter of the Secretary dated 18.3.96 by which the order dated 6.9.94 has been modified. However, in my opinion, the order dated 18.3.95 is prospective in nature and not retrospective. Hence, the order dated 18.3.96 cannot apply to untrained teachers who had been sent for training prior to the said order, dated 18.3.96. Hence, these untrained teachers of recognised institutions who were sent for training for B.T.C. prior to 18.3.96 may complete their training and give their examination but no untrained teachers who are sent for B.T.C. training on and after 18.3.96 will be allowed to complete the training unless they come within the purview of the Government Order dated 18.3.96.

8. Sri. K.S. Shukla submitted that those teachers who had been sent for B.T.C. Training prior to 18.3.96 but who are not entitled to have been sent should also not be allowed to complete their training. In my opinion, if any untrained teacher was teaching in a recognised educational institution and he was sent for training before 18.3.96, then he is entitled to the benefit of the Government order dated 6.9.94. Hence, I further clarify that untrained teachers who were teaching in unrecognised educational institutions will not get the benefit of the Government order dated 6.9.94.

9. With these observations, the writ petition is finally disposed of.