
(2010) 04 AHC CK 0019
In the Allahabad High Court
Case No : Special Appeal No. 339 of 2010

Suman Jaiswal

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 20-04-2010

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2010) 5 AWC 4864

Hon'ble Judges : R.K. Agrawal, J; Jayashree Tiwari, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Jayashree Tiwari, J.—The special appeal has been filed by Suman Jaiswal against the order dated 1.2.2010, passed by the learned single Judge challenging the validity of order dated 6.1.2010, passed by the District Magistrate whereby he set aside the order dated 23.10.2009 of the Basic Shiksha Adhikari, Kushinagar and directed the Basic Shiksha Adhikari, Kushinagar to initiate fresh proceeding for selection for the post of Shiksha Mitra.

2. A bare perusal of the order shows that the learned District Magistrate had come to the conclusion that the selection process was full of faults and hence in accordance with the directions given by the Hon'ble High Court in connection with the Writ Petition No. 61589 of 2009 by Smt. Sunita Jaiswal he has set aside the earlier selection on the ground of its being vitiated by faults and not in accordance with the provisions of Article 14 of the Constitution of India as equal opportunity was not amply provided to all the applicants who have filled up their forms. The form of present applicant was not taken into consideration merely on the ground that it was not received by the competent person. The fact that the original Principal Subhan Allah Ansari was suspended vide order dated 22.11.2007 of the Basic Shiksha Adhikari and again he was reinstated by the order of Basic Shiksha Adhikari on 25.9.2008. The application of Suman Jaiswal was received by Nisarullah Ansari who was looking after the affairs during the

period of suspension but subsequent to the reinstatement, was not competent to accept or receive the forms of the applicant. However, the District Magistrate came to the conclusion that mere wrongful receipt of the application forms by a competent person cannot be a ground to deny the applicant an opportunity to participate in the selection process and hence he while disposing of the representation of Smt. Sunita Jaiswal in pursuance of the order of Hon''ble High Court has directed that the selection which was made in the manner depriving the eligible candidates from participating in the selection process on the ground that their applications were not received by the proper person is wrong and with a view to allow the participation of all such candidates, the District Magistrate while setting aside the initial appointment on the basis of vitiated selection process directed that the post be re-advertised and de novo selection be made so that equal and ample opportunity to the eligible candidates be made available. Learned single Judge has held that if petitioner Suman Jaiswal is having requisite qualification and eligibility she can also participate in the said proceeding. A perusal of the record shows that the application of Suman Jaiswal is already on record and she is shown having obtained more marks than the already selected candidate so there can be no denial of opportunity to the present petitioner also if considered afresh.

3. In the circumstances, we do not find any good ground to interfere with the order passed by the learned single Judge which does not suffer from any illegality or infirmity.

4. The special appeal is dismissed.