
(2009) 02 AHC CK 0048

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 4887 of 2009

Sushil Kumar Sharma

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 06-02-2009

Acts Referred:

Citation : (2009) 02 AHC CK 0048

Hon'ble Judges : R.K.Agrawal, J and S.P.Mehrotra, J

Final Decision : Dismissed

Judgement

S.P.Mehrotra, J.—By means of the present writ petition, the petitioner seeks a writ, order or direction in the nature of Mandamus directing the respondents to place and appoint the petitioner as Principal in Agra College, Agra or Meerut College, Meerut, pursuant to the selection no. 798 dated 7.2.2008 made by the U.P. Higher Education Service Commission hereinafter referred to as the Commission.

2. Briefly stated facts giving rise to the present writ petition are as follows:

According to the petitioner ,at present, he is working as Reader in the Faculty of Law, Agra College, Agra which is affiliated to Dr. Bhim Rao Ambedkar University, Agra. The Commission advertised the post of Principal in various Post graduate and Degree Colleges in the State of U.P. vide advertisement no. 39 published in the leading daily newspapers on 24.2.2005. The petitioner applied for the post of Principal and the selections for the post of Principal in various Post graduate Colleges were held. The petitioner was selected by the Commission and his name was mentioned at Serial No. 62 in the select list dated 2.7.2008 published by the Commission. On 22.12.2008, the Director of Higher Education hereinafter referred to as the Director published a notice inviting all the selected candidates to be present in person in his office on 26.12.2008 at 10.00 am for the purpose of placement of the selected candidates according to the preference given by them. The petitioner also appeared before the respondent no. 2 on 26.12.2008 for the purpose of placement and the petitioner was allotted Janta Post Graduate,

College, Ajitmal, Auraiya. According to the petitioner, the respondent nos. 4 and 5 have been given placement as the Principal in the Agra College, Agra and in the Meerut College, Meerut respectively and these two persons did not have law degree.

3. Relying up on the decision of the Apex Court in Bar Council of India Vs. Board of Management, Dayanand College of Law and others, (2007) 2 Supreme Court Case 202, the learned counsel for the petitioner submits that the Principal to be posted in the college which runs faculty of Law ought to have law degree and persons, who are not law graduate should not be appointed as the Principal in such college and he, thus, submits that the petitioner should have been posted as the Principal of the Agra College, Agra or in the Meerut College, Meerut and therefore, a direction may be given to the respondent no. 2 to amend the list accordingly.

4. We have heard learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent nos. 1 to 3 and have perused the documents filed as annexures along with the writ petition. From the record, we find that the Bar Council of India had derecognized/withdrawn the recognition of law course of Agra College, Agra vide order dated 5.5.2000, copy of which has been filed as Annexure no. 8 to the writ petition. However, a Civil Misc. Writ Petition No. 19571 of 2001, Committee of Management and others Vs. Bar Council of Indian and others has been filed in which an interim order dated 21.5.2001 has been passed in favour of the Management. The aforesaid interim order dated 21.5.2001 was confirmed vide order dated 25.7.2003 by this Court. On the basis of the said interim order, the Agra College, Agra is running Department of Law. When asked by the Court, as to whether the Agra College, Agra and Meerut College, Meerut are also running other faculties like, Art, Science and Commerce, learned counsel for the petitioner replied in the affirmative. Thus, it is not in dispute that besides Department of Law, these two colleges are running other faculties like Art, Science and Commerce also. Now the question arises as to whether merely because, these two colleges are imparting education in the field of Law, therefore, only a person, who is law graduate is to be appointed as the Principal of the these two colleges or other person with requisite qualification can be appointed as the Principal of these two colleges. The persons, who were selected as the Principals of the aforesaid two colleges, were not having law degree as prescribed by the U.P. State Universities First Statutes (Age of Superannuation, Scales of pay and Qualification of Teachers), 1975 and the Rules framed thereunder. The decision rendered by the Apex Court in Dayanand Law College case (supra) relates to a college which runs only law faculty and not any other faculties like Art, Science and Commerce. In this background, the Apex Court held that a person having law degree can only be appointed as the Principal of the law college. In the present case, besides law department, Agra College, Agra and Meerut College, Meerut are running other faculties like Art, Science and Commerce also. Thus, the principles laid by the Apex Court in the aforesaid case can not be applied to the facts of the

present case.

5. In view of the foregoing discussion, we do not find merit in the writ petition which is accordingly, dismissed in limine.