
(2011) 11 UK CK 0175

In the Uttarakhand High Court

Case No : Writ Petition No. 1484 (SS) of 2011

Sushma Rani and another

APPELLANT

Vs

State of Uttarakhand and others

RESPONDENT

Date of Decision : 02-11-2011

Acts Referred:

Citation : (2011) 11 UK CK 0175

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon"ble Sudhanshu Dhulia, J.—Heard Mr. T.P.S. Takuli, Advocate with Mr. Aamir Malik, Advocate for the petitioners and Mr. Anil Bisht, learned Brief Holder for the State of Uttarakhand.

2. The petitioners were admittedly a "Shiksha Mitra". Since the petitioners were not being sent for B.T.C. Training, they constrained to file this writ petition with the following prayer:

- i. Issue a writ, order or direction in the nature of certiorari quashing the order dated 09.09.2011 passed by the respondent no. 4 (Annexure no. 8 to this writ petition).
- ii. Issue a writ, order or direction in the nature of mandamus directing the respondents to permit the petitioners for the B.T.C. training course pursuant to the letter dated 17.04.2010 (Annexure 7 (colly) to the petition).
- iii. Pass such further orders or directions which are just and proper in the facts of the case.

3. The objection of the State in not imparting B.T.C. training to the petitioners is that admittedly it is one of the essential conditions for undergoing BTC training that the "Shiksha Mitra" should be graduate and since the petitioners have obtained the graduation degree while discharging duties of "Shiksha Mitra", they

are not liable to be sent for B.T.C. training.

4. The petitioners though rely upon an order dated 16.6.2010 passed by a learned Single Judge of this Court in Writ Petition No. 270 of 2010 (S/S), where in similar circumstances, writ petition of the similarly situated persons was allowed and directions were given to the State to include their names in the B.T.C. training course of two years and to pass necessary orders within two weeks. Against this order, the State went in special appeal being Special Appeal No. 99 of 2011 State of Uttarakhand and others Vs. Krishna Devi Chauhan and others which was also dismissed on 1.7.2011 and order of the learned Single Judge was upheld. The ground for dismissing the Special Appeal as well as for allowing the writ petition was that the State has not been able to show any provision of law, which requires a "Shiksha Mitra" to obtain permission before or she can undergo the graduation course or examination. That being the position of law, the learned Single Judge as well as the Division Bench of this Court has held that there is no requirement of law for a "Shiksha Mitra" to obtain prior permission before undergoing the graduation course.

5. Hence, the facts of the present case being similar to the facts of the case referred above, this writ petition is allowed. The petitioners' graduation degree would be accepted by the respondents as a valid graduation degree and the petitioners possess the necessary qualifications as per law. The respondents are directed to include the name of the petitioners in the B.T.C. training of two years. Necessary orders shall be passed by the respondents within two weeks from the date of production of a certified copy of this order.

6. No order as to costs.