
(2010) 02 AHC CK 0135
In the Allahabad High Court

Tara Devi	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 10-02-2010

Acts Referred:

Citation : (2010) 2 UPLBEC 1069

Hon'ble Judges : V.K. Shukla, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

V.K. Shukla, J.—Earlier petitioner had approached this Court by means of Civil Misc. Writ Petition No. 7105 of 2009 and this Court on 9.7.2009 passed following, which is being extracted below:

On behalf of the writ petitioner, it is stated that the controversy giving rise to the present writ petition namely inclusion of practical marks of B.Ed Examination for the purpose of working out the quality points marks has been considered and decided by this Court vide judgment and order dated 7.11.2006 passed in writ Petition No. 9445 of 2005 (Shashikant Shukla v. State of U.P. and Ors.) wherein the Government Order dated 20.2.2004 has also been taken into consideration which has since been affirmed by a Division Bench of this Court in Special Appeal No. 396(D) of 2007 whereby the appeal filed by the State Government has been dismissed on 7.8.2008.

In view of the aforesaid the present writ petition is disposed of by providing that the respondents shall take into consideration the total marks of the practical examination as disclosed in the mark sheet issued by the University and shall determine the quality point marks of the petitioner afresh. Suitable place in the select panel shall be assigned accordingly and also necessary action as warranted under law shall be taken. This exercise shall be completed within six weeks from the date of production of a certified copy of this order is filed before the respondent No. 2

2. Pursuant to the order passed by this Court, claim of petitioner has been examined and same has been disposed of by taking reliance on order passed by Hon''ble Apex Court on 12.5.2009.

3. Contention of petitioner is that Director, State Council for Education, Research and Training, Nishatganj, Lucknow has tonally misdirected itself while proceeding to examine the claim of petitioner, in this background petitioner has proceeded to submit that claim of petitioner and other similarly situated incumbent has already been answered by this Court in the case of Ekta Shukla and Ors. v. State of U.P. and Ors. 2006(1) ESC 531 wherein Division Bench of this Court had clearly taken the view that for academic years 1996-97, 1997-98, 1998-99 and indeed for all academic years pursued either in the Faculty of Education of the University or in any of the affiliated colleges in question, is valid, and that the qualification granted by these bodies shall be treated to be valid for the purpose of pursuing Special B.T.C. Court, either of the year 2004 or any other year and for public employment. Petitioner submits that said judgment has been affirmed by Hon''ble Apex Court, thus in this background, contrary view is uncalled for and coupled with this issue has been decided by full bench is not at all relevant as same is in reference of recognition of degrees prior to enforcement of N.C.T.E. Act 1993, and as far issue in respect of petitioner? is concerned, petitioner''s claim has to be adverted to within frame work of judgment rendered by this Court on 20.2.2006 in Civil Misc. Writ Petition No. 9445 of 2007, which has been affirmed by Division Bench. Against the same, State Government filed Special Appeal No. 396(D) of 2007 and same has been dismissed on 7.8.2008.

4. In the present case, order impugned has been perused. Impugned order proceeds to mention that B.Ed. degree of petitioner cannot be recognized as it has not been approved by the N.C.T.E., said opinion has been formed ignoring mandate of this Court in the case of Ekta Shukla and Ors. v. State of U.P. and Ors. 2006(1) ESC 531. Coupled with this in the present case issue on which this Court had given specific direction on 8.7.2009 has not been adverted to as to whether marks of theory and practical has been awarded or not Once objective consideration has not been done, qua existing state of affairs and merely on the ground? that matter is pending before Hon''ble Apex Court, said opinion has been formed, whereas said issue is not at all relevant to the issue raised, as already mentioned above.

5. Consequently, order impugned dated 29.10.2009 passed by Director, State Council for Education, Research and Training, Nishatganj, Lucknow is hereby quashed and set aside. Director, State Council for Education, Research and Training, Nishatganj, Lucknow is directd to take fresh decision in accordance with law, preferably within period of eight weeks from the date of production of certified copy of this order.

6. With these observations, writ petition is disposed of.