
(2009) 11 UK CK 0037

In the Uttarakhand High Court

Case No : Writ Petition No's. 674 and 988 of 2009

Uma Devi

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 26-11-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 21, 45

Citation : (2010) 1 UC 120

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Advocate : Parikshit Saini, for the Appellant; Paresh Tripathi, Brief Holder for Respondents No. 1 and 2, Anil Dabral, for Respondents No. 5 to 24, A.K. Joshi, for Interveners in Writ Petition No. 674 of 2009 and Paresh Tripathi, Brief Holder for Respondents No. 1 and 2 in Writ Petition No. 988 of 2009, for the Respondent

Final Decision : Dismissed

Judgement

Prafulla C. Pant, J.—In both these two writ petitions, the Petitioners have sought quashing of the Government Order No. 323 / XXIV (1) -15 / 2004 dated 1st of March 2009, issued by the Government of Uttarakhand, wherein it has been provided that the Shiksha Mitras will be given two years B.T.C. training.

2. Heard Learned Counsel for the parties and interveners, and also perused the affidavits on record.

3. Brief facts, mentioned in Writ Petition No. 674 (S/S) of 2009, are that the Petitioner Uma Devi is permanent resident of District Haridwar. She is a graduate. In the year 2005, process of regular B.T.C. training course was initiated for appointment of teachers in primary schools in the State of Uttarakhand. However, no examination was held. It is stated that now by issuing the impugned Government Order dated 01.03.2009, Shiksha Mitra who are teaching in the different primary schools on contract basis, are being sent for B.T.C. training course, without making them to compete any examination.

4. In the Writ Petition No. 988 (S/S) of 2009, filed by Petitioner Mohd. Farukh, it has been stated that the Petitioner is a graduate and resident of District Haridwar. It is further stated that an advertisement has been issued for holding competitive examination for undergoing the B.T.C. training course, for appointment as Assistant Teacher in the primary schools of the State. As per the Government Order No. 986 / XXIV(1) / 2006-11/ 2005 dated 22.12.2006 read with Government Order No. 612 /XXIV (1) / 2008 -11 / 2005, the competitive examination is scheduled to be held, it has been further stated that in said Government Orders it is provided that weightage of 15 marks would be given to Shiksha Mitra for giving them preference while admitting the candidates for the B.T.C. training course. In the circumstances, by issuing impugned Government Order dated 01.03.2009, whereby all Shiksha Mitras are to undergo B.T.C. training course, would deprive the other candidates from the public employment. As such, the Government Order is violative of the provisions contained in Articles 14 and 16 of the Constitution of India, and also against the spirit of the principle of law laid down in *Secretary, State of Karnataka v. Umadevi and Ors.* A.I.R. 2006 S.C.W. 1991, and as such, liable to be quashed.

5. As far as case of *Secretary, State of Karnataka v. Uma Devi* (supra) is concerned, it only directs the courts not to regularize services of the persons who have found entry through back door. But in the present case Shiksha Mitra's are appointed under Government orders, to provide education to children of interior areas where, generally regular teachers avoid their posting, and the State Government has decided to impart them B.T.C. under the National Council for Teaching Education, as such the case relied on behalf of the Petitioners has no application to it.

6. In the counter affidavits filed on behalf of the Respondent No. 1 (in both the writ petitions) it has been stated that the Scheme of imparting regular Basic Training Certificate (for short B.T.C.) course to the Shiksha Mitras. is without affecting the rights of candidates who have appeared for examination in regular B.T.C. course.

7. Learned Standing Counsel for the State appearing on behalf of Respondents No. 1 and 2 raised objection to both these writ petitions on the ground that Petitioner Mohd. Farukh (Writ Petition No. 988 (S/S) of 2009) is not a candidate in the examination held for admission in B.T.C. training course, as such, he cannot be said to be a person aggrieved by the impugned Government Order. Similarly, in respect of Petitioner Uma Devi (Writ Petition No. 674 (S/S) of 2009) it is argued that she had failed in the examination held on 23rd of August 2009, for the B.T.C. training course, and her rank is 6425, as such, in any case whether the impugned Government Order is upheld or not, she has no chance of getting admission in the B.T.C. training course. Therefore, she too cannot be said to be an aggrieved person by the impugned Government Order dated 01.03.2009. In reply to this, Learned Counsel for the Petitioners relied to the case of *D.C. Wadhwa and Ors. v. State of Bihar and Ors.* AIR 1987 Supreme Court 579, and it

is contended that where the public interest is affected, the question of locus standi gets diluted. Having considered submissions of Learned Counsel for the parties, I do not find that the public interest is adversely affected by the impugned Government Order dated 01.03.2009. Object of appointing Shiksha Mitra as is apparent from the Government Order No 472 dated 27th of January 2001, was noble. In the interior areas of the State (particularly, a hilly State) where the teachers do not like their postings in the schools, local willing graduates of such villages, were appointed as Shiksha Mitras under Government Orders under a specific Scheme, to impart education in the primary schools keeping in mind the spirit of Article 45 of the Constitution of India, which requires the State to provide free and compulsory education to all children upto the age of 14 years. In 2002, Article 21 A was added in the Chapter III (Fundamental Rights) incorporating the Directive Principle contained in Article 45 of the Constitution. By the impugned order, those Shiksha Mitras who were teaching in the interior areas are being allowed to undergo B.T.C. training to bring the standards of teaching, as provided by the National Council for Teaching Education (N.C.T.E.). In the circumstances, if such persons are being given training to impart education to the children of interior areas, no public interest can be said to be adversely affected which entitles the present Petitioners to maintain these writ petitions.

8. Learned Counsel for the Petitioners argued that if all the Shiksha Mitras who are 2168 in number in the State, are allowed to undergo B.T.C. training course it would deprive the Petitioners from getting the public employment to the post for which they are qualified. It is further contended that the impugned Government Order dated 1st of March 2009, as such, violates the provision contained in Article 16 of the Constitution of India. I do not find force in the argument advanced on behalf of the Petitioners for the reason that unique is cannot claim equality. Shiksha Mitras who are imparting education in the interior areas under a Government Order of 2001, where others do not like to go, are a separate class and the Petitioners cannot claim that they are not being treated equally with the Shiksha Mitras. Otherwise also, the Petitioner Mohd. Farukh of Writ Petition No. 988 (S/S) of 2009, is not even a candidate for the B.T.C. examination, and cannot complain that he is being discriminated. Similarly, Petitioner Uma Devi of Writ Petition No. 674 (S/S) of 2009, who has failed in the examination and stood at rank 6425, cannot say that she has been wrongly deprived of the public employment.

9. Apart from this, in both the writ petitions, in the counter affidavit filed on behalf of Respondents No. 1 and 2, it has been clearly stated that the scheme of B.T.C. training course providing training to Shiksha Mitras is without affecting the regular B.T.C. course for which examination was scheduled to be held (now already held).

10. In the above circumstances and for the reasons as discussed above, this Court does not find any force in these writ petitions. Both the writ petitions are

dismissed. Interim order dated 3rd of July 2009, passed in Writ Petition No. 674 (S/S) of 2009, automatically stands vacated. (All pending applications in both these writ petitions also stand disposed of).