

(2001) 03 AHC CK 0003

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 43115 of 2000

Urmila Srivastava (Smt.)

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

Date of Decision : 22-03-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 2 UPLBEC 1713

Hon'ble Judges : R.K. Agrawal, J

Bench : Single Bench

Advocate : Indra Raj Singh, for the Appellant; S.C., R.G. Padia and Ganga Prasad, for the Respondent

Final Decision : Dismissed

Judgement

R.K. Agrawal, J.—The petitioner, Smt. Urmila Srivastava has filed the present petition under Article 226 of the Constitution of India, seeking a writ, order or direction in the nature of certiorari quashing the impugned order dated 28.6.2000 passed by the District Inspector of Schools, Jaunpur, respondent No. 1, (filed as Annexure-5 to the writ petition), order dated 30.6.2000 passed by the Joint Director of Education, Varanasi Region, Varanasi, respondent No. 2, (filed as Annexure-6 to the writ petition) and the order dated 19/20.9.2000 passed by the District Inspect of Schools, Jaunpur, respondent No. 1. (filed as Annexure-10 to the writ petition). She further prays for a writ of mandamus restraining the respondents from interfering in the functioning of the petitioner on the post of Officiating Principal of Adarsh Girls Inter College, Kheta Sarai, Jaunpur and to give all service benefits including salary from the said post w.e.f. 1st July, 2000.

2. Briefly stated the facts of the case are that there is an Intermediate College known as Adarsh Girls Inter College situate at Kheta Sarai in the district of Jaunpur (hereinafter referred to as the College), which is recognised under the provisions of U.P. Intermediate Education Act, 1921 (hereinafter referred to as

the "Act"). According to the petitioner, she was initially appointed on the post of L.T. grade teacher on substantive basis on 9.7.1970. Her appointment was approved vide order dated 17.11.1970. The Principal of the College Sri Sharad Verma, retired on 30.6.2000. Consequently, a substantive vacancy for the post of Principal occurred in the college. The petitioner being senior most L.T. grade teacher and being eligible and entitled for holding the post of Principal of the Committee of Management of the aforesaid college, passed a resolution on 25.6.2000 appointing the petitioner to officiate on the post of Principal of the college w.e.f. 1.7.2000. The petitioner was given charge of Principal on 30.6.2000 and since then she is discharging the duties of Principal. The respondent No. 4, Smt. Sushma Chaturvedi, who is also assistant teacher in L.T. grade approached the District Inspector of Schools as also the Joint Director of Education, Varanasi on the basis of a letter dated 25.5.2000 written by the petitioner wherein she is said to have refused to hold the charge of Officiating Principal of the college with a prayer that she is not entitled to hold the charge of Officiating Principal as she had declined to take the charge. The District Inspector of Schools and the Joint Director of Education passed an order directing that the charge of officiating Principal be given to respondent No. 4. The petitioner approached this Court by filing Civil Misc. Writ Petition No. 28836 of 2000, which was finally disposed of vide judgment and order dated 3.8.2000 with a direction that the petitioner should make a representation to the District Inspector of Schools, Jaunpur, which may be decide within a time bound period after giving opportunities of hearing to the parties concerned. Pursuant to the aforesaid judgment and order dated 3.8.2000 the District Inspector of Schools vide order dated 19/20.9.2000 had decided the representation made by the petitioner. He had held that the petitioner is not entitled to hold the charge of Officiating Principal. Since she had declined and therefore, the respondent No. 4 being the next senior most teacher ought to have been appointed.

3. I have heard Sri Indra Raj Singh, learned Counsel for the petitioner and the learned Standing Counsel, who represents the respondent Nos. 1 and 2 and Dr. R. G. Padia assisted by Sri Ganga Prasad on behalf of respondent No. 4.

4. Learned Counsel for the petitioner submitted that the petitioner being the senior most L.T. Grade teacher was fully eligible and entitled for being appointed on the post of Principal of the College and therefore, there was no justification for the District Inspector of Schools to deny her claim. He further submitted that the petitioner never intended to give in writing to the committee of management or any other authority to decline to officiate on the post of Principal of the institution against the vacancy, which was going to occur by way of retirement on 30.6.2000 and the fact of the matter is that she was eagerly waiting for the opportunity to officiate on the post of Principal after retirement of the permanent incumbent on 30.6.2000. He further submitted that the findings recorded by the District Inspector of Schools in the impugned order dated 19/20.9.2000 holding that the petitioner declined to hold the post of Principal is absolutely perverse, without any evidence and is based on sunmises and conjectures.

5. Dr. Padia on the other hand submitted that on the earlier occasion when the petitioner had approached this Court by filing Civil Misc. Writ Petition No. 28836 of 2000, this Court has found that the letter declining to assume charge on the post of Principal was written by the petitioner himself and only on the limited question as to whether the said letter was written on earlier occasion and not in relation to the substantive vacancy that occurred on 30.6.2000 as a sequel to the retirement of permanent incumbent was only to be examined by the authority. The District Inspector of Schools after examining the relevant material on record had found that the letter was written by the petitioner on 25.5.2000 itself. He further, found that on that day the then Principal Sri Sharad Verma had issued a notice calling all the teachers for interview on 28.5.2000, which has not been denied by the other persons, who have signed the said notice. He further found that the petitioner had written the refusal letter on 25.5.2000. The explanation given by the petitioner that she had written the letter on 17.12.99 has been disbelieved by the District Inspector of Schools. In view of the directions given by this Court vide judgment and order dated 3.8.2000 in Civil Misc. Writ Petition No. 28836 of 2000 filed by the petitioner herself, the inquiry in the matter has been limited only to the extent to the date when the said letter has been written by the petitioner. The District Inspector of Schools had found that the letter has been written by the petitioner on 25.5.2000.

6. The findings recorded by the District Inspector of Schools are based on appreciation of evidence and relevant material on record. It cannot be said to be arbitrary or perverse. Since the petitioner has declined to accept the post of Principal, she could not have been appointed as officiating Principal.

7. In view of the foregoing discussions, I do not find any merit in the petitioner, it is accordingly dismissed.