

(2010) 09 AHC CK 0313

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 57516 of 2010

Yashwant Singh and another

APPELLANT

Vs

State of U.P.Through Principal Secretary, Higher Education,
Govt.of U.P., Lucknow and another

RESPONDENT

Date of Decision : 20-09-2010

Acts Referred:

Citation : (2010) 09 AHC CK 0313

Hon'ble Judges : A.P.Sahi, J

Final Decision : Dismissed

Judgement

Amreshwar Pratap Sahi,J.

The petition relates to the Joint Entrance Examination 2010 for admission in B.Ed. Course.

The issue raised in this petition is that the petitioners are being denied admission in the B.Ed. course on the ground that they have not achieved the minimum of 50% marks at their graduation level which is essential for being admitted in the said course.

Learned counsel for the petitioners relies on the interim orders that were passed in this matter by the Lucknow Bench by a learned Single Judge. He further submits that in Writ Petition No. 51699 of 2010, taking notice of the stay order passed by the Division Bench in Special Appeal No. 608 of 2010, the matter has been directed to be listed after the decision in the said special appeal.

In my considered opinion, interim orders are not binding precedents and therefore the matter has to be finally examined in terms of the regulations and statutory rules that are applicable for the purpose of admission in the B.Ed. course.

The brochure which was issued on 13th April 2010 mentions that the percentage of marks in the graduation examinations should be 45%. This mention in the

brochure is contrary to the statutory rule as prescribed by the National Council of Teachers Education which has been pointed out by Sri R.A. Akhtar quoted below:

(2) Eligibility

(a) Candidates with at least fifty percent marks either in the Bachelor's Degree and/or in the Master's Degree or any other qualification equivalent thereto are eligible for admission to the programme.

(b) The reservation in seats and relaxation in the qualifying marks in favour of the reserved categories shall be as per the rules of the concerned Government."

The said notification dated 31.8.2009 categorically recites that the minimum of 50% marks is required either in the Bachelors Degree and/or in the Masters Degree or any other qualification equivalent thereto for being eligible to be admitted in the B.Ed. Programme.

The brochure which has been issued and which is being relied upon by the respondents contains an information to the effect that the minimum of 45 marks would be necessary as against the percentage of 50% quoted hereinabove.

The brochure and the information so published in March 2010 was contrary to the provisions of the regulations contained in the notification dated 31.8.2009 which have framed in exercise of powers under Section 32 of the National Council for Teacher Education Act 1993. The said regulations have neither been modified nor has the said percentage been relaxed till date.

The petitioners allege that they have accordingly filled up their Forms and appeared in the examinations and the respondents are therefore estopped from now taking a different stand. It is also contended that the petitioners have a legitimate expectation of getting admitted in the B.Ed. Course.

It appears that taking notice of the aforesaid error in the brochure as published in a Hindi Daily Newspaper "Hindustan" dated 28.4.2010, the State Government for reasons best known to it through the Secretary, Government of Uttar Pradesh wrote a letter of request to the National Council for Teachers Education to relax the aforesaid percentage as prescribed under the regulations to bring it in conformity with the information published in the brochure. It was a request by the Government keeping in view the future of a large number of candidates who were applicants against the said brochure. The said letter dated 28th April, 2010 is quoted below:

It may be noted that inspite of this request made by the State Government through Sri R.A. Akhtar states that no such relaxation has been permitted so far for the Session 201011.

Having heard learned counsel for the parties, it is settled principal of law that estoppel does not operate against a statute. The statutory provisions in the shape of regulations therefore clearly lay down a minimum of 50% marks at the qualifying level. Any wrong mention in the brochure will not confer any right, or

any legitimate expectation which can be founded on some right, on the petitioners to claim admission without having obtained a minimum of 50% marks as provided in the regulations.

The arguments advanced therefore are of no avail. These aspects have already been indicated in the interim order of the Division Bench dated 25.8.2010 which has been continued and even otherwise in view of the conclusions drawn hereinabove there is no merit in the petition. The petitioners have not received the minimum of 50% marks in their graduation examinations. The claim therefore raised is devoid of merit and accordingly the petition is hereby dismissed with no costs.