

(1967) 04 AHC CK 0026

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 1832 of 1966

Zila Parishad Allahabad

APPELLANT

Vs

Commissioner, Allahabad Division, Allahabad and others

RESPONDENT

Date of Decision : 20-04-1967

Acts Referred:

Citation : (1968) 38 AWR 94

Hon'ble Judges : Satish Chandra, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Satish Chandra, J.—The only point raised in this writ petition is whether an appeal lies against an order of dismissal of a Zila Parishad employee passed by the Adhyaksh. The third Respondent Devendra Kumar Singh was appointed as assistant teacher in Primary School Rajapur on 21-2--1964. On 18-7-1962, the Kshettra Samiti was constituted and started functioning. The Zila Parishad was constituted from 30-6-1963 by notification issued u/s 17(1) of the Zila Parishad Act. The third Respondent was therefore governed by the provisions of the Zila Parishad Act in the matters of conditions of service and dismissal etc. Under this Act there is no provision for an appeal against an order of appointment vide Zila Parishad of Faizibad v. State of U.P. 1966 ALJ 750.

2. Section 46 of the Zila Parishad Act will not apply because on the date of the appointment of Respondent No. 3 the UP District Boards Act stood repealed vide Section 274 of the Zila Parishad Act. Under the Act the punishment of officers and other servants employed with Zila Parishad or with any Kshettra Samiti including appeals from order or punishment, the power of revision, if any, of appellate orders and suspension pending enquiry shall be regulated by rules u/s 53 of the Act. No rules giving a right of appeal or conferring on the Commissioner a power to hear and decide any appeal against the order of dismissal or punishment has been framed. There is no other provision conferring any such right of appeal. The third Respondent had no right to file an appeal and

the Commissioner had no jurisdiction to hear or decide it.

3. The petition is allowed. The impugned order of the Commissioner passed on 30-12-1965 is hence quashed. The Petitioner will be entitled to his costs.