
(2013) 02 AHC CK 0128

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 9691 of 2013

Hasmat Ullah and
Another

APPELLANT

Vs

State of U.P. and
Others

RESPONDENT

Date of Decision: Feb. 21, 2013

Acts Referred:

- Arbi Madarsa Rules, 1987 - Rule 21, 31

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

Final Decision: Dismissed

Judgement

A.P.Sahi, J.

Heard learned Counsel for the petitioner.

2. The petitioners are assailing the promotion order of the respondent No. 7 on the post of Assistant Teacher (Faukaniya) on the ground that the seniority of the petitioner has been over looked and secondly the respondent No. 7 happens to be the real nephew of the Manager.

3. Sri Rahul Mishra contends that under Rule 31 of the Arbi Madarsa Rules, 1987 it has been provided that 50% posts have to be filled up by way of promotion. The said rule nowhere indicates that the promotion has to be made on the basis of seniority. There is no other rule pointed out by the petitioner which may indicate that seniority has to be taken into consideration for the purpose of promotion. Rule 31 is quoted below:

4. The second contention is with regard to the relationship of the respondent No. 7. Rule 21 only narrates five types of relations who are prohibited from being appointed. The said prohibited category which is exhaustible in nature does not include a nephew. Rule 21 is quoted hereunder:

5. In the aforesaid circumstances both grounds as urged by the learned Counsel for the petitioner cannot be entertained and the impugned order dated 6.12.2012 cannot be faulted. Even otherwise the Institution is a minority institution and the submission pressed into service on the basis of any parity with similar rules in other institutions cannot be legally countenanced.

6. The writ petition is dismissed having no merits.