
(2004) 1 UPLBEC 208

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 43558 of 2001

Inder Mohan Oberoi

APPELLANT

Vs

Zila Basic Shiksha
Adhikari and Others

RESPONDENT

Date of Decision: Sept. 16, 2003

Citation: (2004) 1 UPLBEC 208

Hon'ble Judges: Rakesh Tiwari, J

Bench: Single Bench

Advocate: A.K. Srivastava, for the Appellant; Anil Tiwari and S.C., for the Respondent

Final Decision: Allowed

Judgement

Rakesh Tiwari, J.

Heard Counsel for the parties.

2. The petitioner, was working as Assistant Teacher in Gopal Balak Junior High School, Kankar Khera, Shobhapur, Meerut since 25.2.1996. The

Zila Basic Shiksha Adhikari approved his appointment. He is aggrieved by the order of his dismissal dated 3.12.2001, passed by Committee of

Management (respondent No. 2). The petitioner has the following educational qualifications :

Educational Qualification Year Examination Body

High School 1977 U.P. Board of High School and Inter

mediate Education, U.P., Allahabad.

Intermediate 1979 -- do --

B. Com. 1982 Meerut University

B. Ed. (Shiksha Shastri) 1986 Sampurna Nand Sanskrit Vishwavidyalaya,

Varanasi

3. On a general complaint made by some persons against the management of Gopal Balak Junior High School, Kankar Khera, Shobhapur, Meerut

to the Governor and the Chief Minister, the Deputy Director of Education (Science), Office of the Director of Education (Basic), U.P., Allahabad

(respondent No. 4), conducted an enquiry. Pending enquiry the payment of salary to the Teachers of the School was stopped vide order dated

30.9.2000, aggrieved by the aforesaid order, the petitioner and some other Teachers along with him filed Writ Petition No. 4094 of 2001, Girish

Thapar and Ors. v. State of U.P. and Ors. A mandamus was granted by this Court on 5.2.2001 for payment of salary to the petitioners till further

orders. In pursuance thereof the petitioner was paid salary till 31.12.2000.

4. Thereafter respondent No. 1 issued a show cause notice dated 30.3.2001, to the petitioner indicating that his certificates of educational

qualifications are forged and very doubtful. An enquiry was conducted by the Zila Basic Shiksha Adhikari, Meerut (respondent No. 1) regarding

educational qualifications through the Deputy Basic Shiksha Adhikari, Meerut who was the Enquiry Officer. The contents of notice dated

30.3.2001, is as under :--

^dk;kZy;] ftyk csfld f"kk{kk vf/kdkjh] esjB A

vfofgr i=kad ys[kk@6885&6910@2000&2001] fnukad 30-3-2001] Jh bUnzeksgu vkscjk; Ã-Ã-Ã½lgk;d v;/kidÃ-Ã-Ã½] xksiky twfu;j gkbZ Ldwy]

ddj[ksM+k A

Jh jke izdk"kJ mi f"kk funsa"kd $\tilde{A}^{-}\hat{A}_{\frac{1}{2}}foKku\tilde{A}^{-}\hat{A}_{\frac{1}{2}}\tilde{A}^{-}\hat{A}_{\frac{1}{2}}rs$ f"kk funs"kd csfld] m-iz-] bykgckn ds i=kad lkekU; $\tilde{A}^{-}\hat{A}_{\frac{1}{2}}1\tilde{A}^{-}\hat{A}_{\frac{1}{2}}$

csfld@1779@1778@2000&2001] fnukad 6-12-2000] ds }kjk tk $\tilde{A}^{-}\hat{A}_{\frac{1}{2}}p$ ds le; vkids fu;qfDr ij fuEu vkifRr yxkbZ gS %

1- vki izcU/kd ds utnhdh fj"rsnkj gSa A ftudh fu;qfDRk csfld f"kk fu;ekoyh] 1978 dh /kkjk 6 ds vUrxZr vekU; gS A

2- vkidh "kSf+{kd@izf"kk.k izek.k&i= lafnX/k gS A

3- vkidh mez fu;qfDr ds le; 18 o""kZ ls de Fkh A

D;ksa u vkidh lsok;sa lekIr dj nh tk;aas A vki viuk i{k izLrqr djus gsrq ewy izek.k&i=ksa lfgr ,oa v/;kid QksVks izi= $\tilde{A}^{-}\hat{A}_{\frac{1}{2}}rh$ izfr;ksa $\tilde{A}^{-}\hat{A}_{\frac{1}{2}}$ lfgr

fnukad 3 ,oa 4 vizSy dks vius fo|ky; esa mifLFkr jgs vU;Fkk ;g le>k tk;sxk fd vkidks dqN ugha dguk gS] vkSj fu;ekuqlkj dk;Zokgh dj nh tk;sxh

A

g- vLi""V]

$\tilde{A}^{-}\hat{A}_{\frac{1}{2}}p$ Unu flag fc""V $\tilde{A}^{-}\hat{A}_{\frac{1}{2}}$]

ftyk csfld f"kk vf/kdkjh] esjB A**

5. The Enquiry Officer submitted his report on 9.8.2001. The relevant part of the said report pertaining to the petitioner is as under :

$\tilde{A}^{-}\hat{A}_{\frac{1}{2}}d\tilde{A}^{-}\hat{A}_{\frac{1}{2}}$ bUnz eksgu vkscjk;] lgk;d v/;kid dh fu;qfDr frfFk 1-3-96 gS] v/;kid fooj.k&i= ij izcU/kd us gLrk{kj djus ds mijkUr $\tilde{A}^{-}\hat{A}_{\frac{1}{2}}yM$ yxk fn;k

x;k A

$\tilde{A}^{-}\hat{A}_{\frac{1}{2}}$ [k $\tilde{A}^{-}\hat{A}_{\frac{1}{2}}$ v/;kid us f"kk{kk "kkL=h ijh{kk lEiw.kkZuUn laL $\tilde{A}^{-}\hat{A}_{\frac{1}{2}}r$ fo"fo|ky;] okjk.klh ls o""kZ 1986 esa mRrh.kZ dh gqbZ n"kkZ;h gS] mDr

izf"kk.k izek.k&i= dh tk $\tilde{A}^{-}\hat{A}_{\frac{1}{2}}p$ djkbZ xbZ] ftls tk $\tilde{A}^{-}\hat{A}_{\frac{1}{2}}p$ esa QthZ ik;k x;k] vr% fu;qfDr fujLr djus ;ksX; gS A

6. Though the aforesaid Enquiry Report has been filed with the writ petition it is submitted that the copy of the enquiry report was never given to

the petitioner at the relevant time informing him to submit proper reply to the show cause notice and as such deprived him of opportunity to

produce necessary evidence which could have been obtained from the Sampoorna Nand Sanskrit Vishwavidyalaya, Varanasi regarding passing of the B.Ed. Examination.

7. It is alleged that the petitioner submitted an application before the Assistant Director of Education (Basic), 1st Region, Meerut informing that he

has passed B. Ed. Examination in the year 1986, with Roll No. 60 from Sampoorna Nand Sanskrit Vishwavidyalaya and also that the Enquiry

Officer has not properly verified the record from the authority of the University.

8. A representation was also submitted by the petitioner along with an affidavit disclosing relevant facts and information that proper verification had

not been done but, it is alleged that no action was taken by respondent No. 2. It is further alleged that without considering his representation and

without making proper enquiry in respect of his correct roll number from the Sampoorna Nand Sanskrit Vishwavidyalaya regarding his B.Ed. and

other qualifications he was dismissed on 3.12.2001.

9. It is submitted by the petitioner that he has passed B. Ed. Examination in 1986 from Sampoorna Nand Sanskrit Vishwavidyalaya, Varanasi with

Roll No. 60 and the degree dated 21.5.1997 was issued to him which was submitted before the respondents but the respondents illegally held that

his B.Ed. Degree is forged and illegally dismissed him from service. The petitioner has impleaded Sampoorna Nand Sanskrit Vishwavidyalaya.

Varanasi also. The petitioner further alleges that opportunity of hearing was denied to him by respondent No. 1 who conducted ex-parte enquiry in

very illogical and irrational manner and illegally came to the conclusion that his B.Ed. Degree is forged. The petitioner alleges to have repeatedly

requested the respondents to verify the facts from the University Authorities but the respondents paid no heed to his request.

10. It is further submitted that in fact respondent No. 7, demanded six months' salary as illegal gratification and when he refused to pay the same

respondent No. 7, Zila Basic Shiksha Adhikari deliberately, maliciously and in collusion with respondent Nos. 2 and 6 prepared a forged Enquiry

Report and dismissed him from service in violation of all canon of natural justice.

11. At the time of admission notices were accepted by the Standing Counsel on behalf of respondents Nos. 1, 3, 4, 5, 6 and 8. Notices were also

issued to respondent Nos. 2 and 7. However, no counter-affidavit has been filed by respondent Nos. 1 to 8. Surprisingly. Sampoorana Nand

Sanskrit Vishwavidyalaya (respondent No. 9) has filed counter-affidavit even though notice had not been issued to it. It appears that the case came

up for modification of the order and after hearing the parties the following order was passed on 4.4.2002 :--

On 19.12.2001, time was given to the respondents to file counter-affidavit. No counter-affidavit has been filed on behalf of State Authorities.

However, the counter-affidavit has been filed by respondent No. 9.

It appears that ground for passing the impugned order by the Basic Shiksha Adhikari, Meerut is that the petitioner"s Certificate/Degree of B.Ed.,

of the year 1986 has been found to be forged as on Roll No. 425, Shiva Ram Bahadur Singh has appeared and passed examination. Learned

Counsel for the petitioner submits that from very beginning the petitioner"s stand was that petitioner appeared and passed the examination on roll

number 60. The question whether the petitioner passed B.Ed. Degree in the year 1986 from the concerned University is a matter of verification

from the respondent No. 9.

In Paragraph 4 of the counter-affidavit filed on behalf of respondent No. 9, it is stated that the petitioner has done his B.Ed. course from the

University on the Roll No. 60 in the year 1986.

In view of the aforesaid fact and submission, it appears that petitioner is entitled to get interim protection. Accordingly, it is directed that the

operation of the impugned orders dated 9.10.2001 and dated 3.12.2001 (Annexure-18 and 20 to the writ petition) shall remain stayed and the

petitioner will be entitled to get his current salary month to month. List this matter in July, 2002. Learned Standing Counsel may file counter-

affidavit by the next date.

Sd/-S.K. Singh, J.,

4.4.2002.

12. At the time of hearing also Counsel for Sampooran Nand Sanskrit Vishwavidyalaya appeared and supported the case of the petitioner on the

basis of averments made in the counter-affidavit filed on behalf of the University through its Registrar. In Paragraph 4 of the counter-affidavit filed

on behalf of respondent No. 9, it has been stated that the certificate annexed to the writ petition as Annexure 4 is genuine document issued by the

University. The contents of Paragraph 4 of the counter-affidavit are as under :--

4. That the certificate annexed with the writ petition as Annexure No. 4 is the genuine documents as has been issued by the University. The

petitioner, has done his B.Ed. course from the University on the Roll No. 60 in the year 1986.

13. From the facts narrated above, it is evident that the services of the petitioner has been terminated on the ground of alleged fictitious certificate

of educational qualification. On the other hand the petitioner had been demanding fair and unbiased enquiry for verification of his educational

qualification. The genuineness of the B.Ed. qualification could only have been verified by the respondent No. 9 who has supported the case of the

petitioner as stated above. In the absence of the counter-affidavit from any of the other respondents 1 to 8 the un rebutted averments of the

petitioner coupled with supporting counter-affidavit of respondent No. 9 has to be accepted.

14. For the reasons stated above, the writ petition succeeds and is allowed. The impugned order of termination is quashed. The respondents are

directed to reinstate the petitioner and pay his salary month to month as and when it falls due. No order as to costs.