

(1995) 11 AHC CK 0101

Allahabad High Court

Case No: C.M.W.P. No. 34348 of 1995

Udal Prasad

APPELLANT

Vs

District Inspector of Schools and
Another

RESPONDENT

Date of Decision: Nov. 30, 1995

Hon'ble Judges: R.H. Zaidi, J

Bench: Single Bench

Advocate: G.K. Singh and R.N. Singh, for the Appellant; Tirathraj Shukla and B.D. Mandhyan and S.C., for the Respondent

Judgement

R.H. Zaidi, J.

Heard the learned Counsel for the Petitioner and Sri B.D. Mandhyan, who is appearing for Respondent No. 3 and also learned standing counsel for Respondent No. 1.

2. Learned Counsel for the Petitioner is permitted to delete the Committee of Management from the array of the parties. As desired by the parties, I have heard the matter finally.

3. This writ petition has been filed by the Petitioner seeking a writ in the nature of certiorari quashing the order dated 24.11.1995 passed by the District Inspector of Schools, Varanasi.

4. The facts giving rise to the present writ petition are that on 20.5.1976, a seniority list was prepared and published and objections were invited. Nobody appears to have filed any objection against the aforesaid list. Consequently, the same was finalised and the final seniority list was published on 2.9.1976. In the seniority list, Petitioner was shown at serial No. 2 while Respondent No. 3 at serial No. 4. The Principal of the Institution known as Kisan Uchchater Madhyamik Vidyalaya, Saidpur, Varanasi was to retire from the office of the Principal. It has been stated that while retiring, the said Principal had prepared another list and submitted the same to the

District Inspector of Schools, Varanasi. In the said list, the Petitioner was shown below the name of Respondent No. 3. The Petitioner, therefore, challenged the validity of the said seniority list by way of filing Civil Misc. Writ Petition No. Nil of 1992. This Court vide order dated 20.5.1992 directed the District Inspector of Schools, Varanasi to decide the dispute with respect to the seniority between the Petitioner and Respondent No. 3. The District Inspector of Schools, Varanasi, passed the order on 8.7.1992 by which the claim of Respondent No. 3 was upheld and he was declared to be senior to the Petitioner. The Petitioner, therefore, filed another Writ Petition No. 26763 of 1992 in this Court challenging the validity of the order dated 8.7.1992. The said writ petition was allowed by this Court holding that the seniority list prepared and finalised in the year 1976 became final and the question of seniority could not be reopened. Regulation 3 Chapter II will have no application in the present case for the reason that the said regulation came into force long after the seniority list was decided and finalised.

5. The writ petition was allowed and the District Inspector of Schools, Varanasi was directed to decide the dispute as under:

In the circumstances, the writ petition succeeds and is allowed. The Impugned order dated 8.7.1992 at Annexure 10 to the writ petition is hereby quashed. The District Inspector of Schools, Varanasi is directed to decide the representation of the Petitioner in the light of the present judgment and such decision is to be taken within a period of three weeks from the date of production of a certified copy of this order.

The aforesaid order dated 8.8.1995 became final and was thus binding upon the parties thereto.

6. In view of the directions given by this Court, it was obligatory on the District Inspector of Schools, Varanasi to decide the dispute in the light of the aforesaid judgment. i.e. treating the Petitioner senior to Respondent No. 3. It was not open to him to deviate from the said line. The District Inspector of Schools, Varanasi instead of complying the order passed by this Court appears to have sent back the matter by means of the impugned order, to the Committee of Management to re-determine the question of seniority. In my opinion, the order passed by the District Inspector of Schools, Varanasi, amounts to contempt of this Court. But at this stage, I am not inclined to take any action for contempt, however, I deprecate the conduct of the District Inspector of Schools, Varanasi. The order passed by the District Inspector of Schools, Varanasi dated 24.11.1995 is quashed. The matter is sent back to the District Inspector of Schools, Varanasi to pass order in the light of the observations and directions given above within two weeks from the date of certified copy of this order is produced before him.

With these directions, this writ petition is disposed of finally.