

(2013) 05 AHC CK 0412

Allahabad High Court

Case No: C.M.W.P. No. 26073 of 2013

Dinesh Kumar Singh and
Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: May 9, 2013

Citation: (2013) 5 AWC 5342

Hon'ble Judges: Amreshwar Pratap Sahi, J

Bench: Single Bench

Advocate: Shamimul Hasnain, for the Appellant;

Final Decision: Allowed

Judgement

Amreshwar Pratap Sahi, J.

Heard learned counsel for the petitioner and the learned standing counsel for the respondent Nos. 2 and 3. It is not necessary to issue any notice to the respondent Nos. 4 and 5 keeping in view the order that is proposed to be passed.

2. This dispute relates to grant of approval or otherwise to Class IV appointments in Chandra Shekhar Azad Inter College Gaura, Mirzapur.

3. The petitioners claim that they were selected and appointed and the papers were forwarded to the District Inspector of Schools as required under Regulation 101 of Chapter III of the U.P. Intermediate Education Act, 1921.

4. The impugned order has been passed by the Regional Level Committee refusing to extend recommendation in favour of the petitioner on the ground that the Manager of the Institution did not appear before the Regional Level Committee at the time of the consideration of the said claim.

5. Learned counsel for the petitioner submits that there is no infirmity and the aforesaid ground taken for refusing to make a recommendation is, erroneous and alien to the controversy.

6. Sri A.K. Yadav submits that it is quite possible that there may be some other infirmity in the process and, therefore, the Committee wanted to make an inquiry from the Manager as well. The impugned order cannot be said to be erroneous.

7. Having heard learned counsel for the parties, it is apparent that the Regional Level Committee has over looked the provisions of the Act and the Rules as well as the Regulations for the purpose of such consideration. The institution granting appointment to the petitioner states to have seven sanctioned posts of Class IV employees out of which two are of the general category, three of the O.B.C. and one of the scheduled caste category. The petitioner No. 1 is of the general category and the petitioner No. 2 is a schedule caste, and they both fall within the sanctioned strength. In such circumstances their appointments were valid as prior permission had been taken from the District Inspector of Schools and, therefore, in the absence of any legal infirmity, much less a procedural fault, the same deserves to be recommended in their favour keeping in view the ratio of the decision in the case of [Jagdish Singh Vs. The State of U.P., The District Inspector of Schools, The Principal, Shri Indra Bahadur Singh National Inter College and Committee of Management, Shri Indra Bahadur Singh National Inter College, .](#)

8. The submission raised is that the impugned order, therefore, proceeds on totally erroneous and perverse reasoning, that the Manager not being present, while it is admitted in the impugned order that the Principal of the Institution was present alongwith the original documents, the recommendation cannot be made.

9. The contention of the learned counsel for the petitioner is correct inasmuch as the authority competent to appoint Class IV employees, under the Regulations framed under the U.P. Intermediate Education Act, 1921 is the Principal of the Institution. If the Principal was present alongwith the entire documents then there was no occasion for the Regional Level Committee to have called upon the Manager of the Institution. The attitude is not only erroneous but also mala fide. The face of the Manager was not a requirement under the rules. If the documents in original were presented by the Principal, the physical absence of the Manager cannot be a ground to decline a recommendation.

10. The impugned order of the Regional Level Committee dated 27.7.2012 Annexure-13 to the writ petition is hereby quashed. The matter is remitted back to the respondent No. 2 to consider the claim of the petitioner in the light of the aforesaid observations and to pass an appropriate order within a period of six weeks of the presentation of the order before him and issue necessary instructions to the District Inspector of Schools to act accordingly. The writ petition is allowed.