

## C/M, Jan Shikshan Inter College Vs State of U.P. and Others

**Court:** Allahabad High Court

**Date of Decision:** Nov. 8, 2010

**Acts Referred:** Uttar Pradesh Intermediate Education Regulations, 1921 – Regulation 101, 102, 103, 104, 105

**Hon'ble Judges:** Yogesh Chandra Gupta, J; Sunil Ambwani, J

**Bench:** Division Bench

**Final Decision:** Dismissed

### Judgement

1. We have heard Shri V.K. Singh, learned Counsel appearing for Committee of Management, Jai Shikshan Inter College, Prempur, Badagaon,

District Kanpur Nagar. Shri Satish Mandhyan and Shri Alok Dwivedi appear for respondent No. 4. Shri R.K. Ojha has accepted notice on behalf

of respondent No. 5. Shri Neeraj Pandey appears for respondent No. 6. The remaining respondents are represented by the Standing Counsel.

2. It is admitted to Shri V.K. Singh, counsel appearing for respondent-appellant, that there is only one sanctioned Class-III post in the College, for

which the Committee of Management issued an advertisement for selection by direct recruitment.

3. Learned Single Judge has found that in view of the judgment in Jai Bhagwan Singh Vs. District Inspector of Schools, Committee of

Management, Maharana Khumbha Higher Secondary School and Devendra Singh Gehlot, interpreting Regulation 2 (2) and the note appended

thereto, in Chapter III of the Regulations framed under U.P. Intermediate Education Act, 1921, and which speaks of 50% reservation of seats for

promotion, a single post of Class-III available in the Intermediate College can be filled only by way of promotion of an eligible Class IV employee.

The Division Bench did not approve the view taken in Palak Dhari Yadav Vs. Regional Inspectress of Schools, Gorakhpur and others, A similar

view has been taken in Munna Lal Vs. Devendra Bahadur Singh Chandel and Others, .

4. It is submitted by Shri V.K. Singh that the College has purchased computers. The persons working on Class IV post do not have knowledge of

the computer, and thus the decision to fill up the post by direct recruitment was taken for better management of the institution.

5. The Court has already interpreted Regulation-2 of Chapter-III of the Regulations framed under the U.P. Intermediate Education Act, 1921, and

has found that the Class IV employees have a right to be considered for promotion on the single sanctioned post of Clerk in the Intermediate

College. In view of the statutory rights given to the Class IV employees for promotion on the single post, the argument, that for betterment of the

College such person should have knowledge of computer, does not have any force.

6. The other issues namely, whether Shri Nagendra Singh is the senior most employee, or that he is otherwise eligible, are still pending with the

Regional Level Committee, which is required to examine the matter keeping in view of the provisions of Regulations 101 to 107 of Chapter III of

the Regulations framed under the Act. The judgment of learned Single Judge is based upon a settled law, accepted in various judgments of the

Court interpreting the Regulations. We do not find any good ground to take a different view.

7. The Special Appeal is dismissed.