

(2005) 10 AHC CK 0150

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 67651 of 2005

Manjeet Singh

APPELLANT

Vs

District Inspector of Schools,
Finance and Account Officer,
State of Uttar Pradesh and
Principal, National Inter College

RESPONDENT

Date of Decision: Oct. 26, 2005

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

Bench: Single Bench

Advocate: Prakash Padia, for the Appellant; K.R. Singh and S.C., for the Respondent

Final Decision: Allowed

Judgement

A.P. Sahi, J.

The petitioner has challenged the order dated 10.10.2005 passed by the District Inspector of Schools, Ghazipur, rejecting the claim of the petitioner of his appointment on the post of a class-IV employee on the ground that the petitioner is the grand son of the brother of Principal of the institution and, as such, he falls within the prohibited category of relative referred to in the Schedule II appended to the U.P. Intermediate Education Act, 1921.

2. Since the issue is one of law, therefore, this Court does not find it necessary to invite any counter-affidavit on behalf of the respondents and learned Standing Counsel Sri K.R. Singh has very ably assisted the Court on the aforesaid issue by inviting the attention of the Court to the IIInd Schedule referred to herein above. A perusal of the said Schedule indicates that a brother's son is included in the prohibited category. The Schedule clearly defines 27 categories of relations which fall within the prohibited category for the purpose of appointment in an institution. The Schedule as well as the provisions under which the said schedule has been framed clearly indicates that the list is exhaustive and not illustrative. In this view of the matter, no other relative can be said to be included within the prohibited

category as defined under the IIInd Schedule. The aforesaid position of law stands squarely supported by a recent decision of this Court in the case of [Gyan Pratap Singh Vs. The State of Uttar Pradesh and Others,](#) . The impugned order, therefore, proceeds on an erroneous assumption of law inasmuch as admittedly the petitioner is the grand son of the brother and therefore, he does not fall within the prohibited category as defined in the IIInd Schedule referred to herein above.

3. The impugned order dated 10.10.2005 is quashed. The District Inspector of Schools, Ghaziabad, is directed to forthwith pass appropriate orders in the light of the observations made herein above for approving the appointment of the petitioner in accordance with law as expeditiously as possible preferably within a period of 3 weeks and to extend all such consequential benefits to which he is entitled in accordance with law.

4. The writ petition is allowed. No order as to cost.