

**(2010) 12 AHC CK 0200**

**Allahabad High Court**

**Case No:** Special Appeal Defective No. 105 of 2005

Basic Shiksha Parishad and  
Others

APPELLANT

Vs

Smt. Pratibha Singh

RESPONDENT

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**Date of Decision:** Dec. 3, 2010

**Hon'ble Judges:** Shyam Shankar Tiwari, J; Ashok Bhushan, J

**Bench:** Division Bench

**Final Decision:** Dismissed

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### **Judgement**

1. This is an application praying for condonation of 195 days delay in filing an appeal. The grounds taken in the affidavit are that Appellant No. 4 who has filed his affidavit in support of delay condonation is posted as Basic Shiksha Adhikari, Hathras on 22.1.2005 and he came to know about the judgment after looking into the papers available in his office and thereafter steps were taken to file appeal. Cause shown is sufficient. The delay is condoned. The application is allowed. Order Date:

2. Heard Shri B.P. Singh, learned Counsel for the Appellant. No one has appeared for the Respondents although the appeal is taken in the revised list. This special appeal has been filed against the judgment and order dated 15.7.2004 of a learned Single Judge by which writ petition filed by Respondents Smt. Pratibha Singh has been allowed. Smt. Pratibha Singh, writ Petitioner obtained Basic Teachers Training Course from District Institute of Education & Training, Ambikapur, M.P. by correspondence in the year 1995. She filed a writ petition No. 17592 of 2002 claiming appointment to the post of Assistant Teacher in the school run by U.P. Basic Education Board. The above writ petition was disposed of directing the Respondent, to decide the representation, the District Basic Shiksha Adhikari rejected the representation by order dated 11.12.2002 with the findings that by Government Order dated 11.8.1997, the equivalence granted to BTC Training course from outside the State has been withdrawn by the State Government, hence all the

candidates who have obtained BTC from outside the State are not eligible for appointment as Assistant Teachers. The learned Single Judge relying on a Division Bench judgment of this Court reported in Upendra Rao v. State of U.P. (2002) 2 UPLBEC 1340 took the view that writ Petitioner was eligible for appointment as Assistant Teachers, and the Government Order dated 11.8.1997 was set aside.

3. A similar issue was considered by a Division Bench of this Court of which one of us (Hon"ble Ashok Bhushan,J.) was a member in writ petition No. 58 of 2003 (Vinod Kumar Singh v. District Basic Education Officer and others) decided on 30.11.2010. The above Division Bench had laid down that the candidates who obtained training certificate from outside the State of U.P. are not eligible for appointment of Assistant Teacher in the institution run by Basic Shiksha Parishad. The Division Bench had also relied upon the judgment of the Apex Court in Basic Education v. Upendra Rai 2008 (1) ESC 160 SC. The Apex Court by the aforesaid judgment has over-ruled the Division Bench judgment of this Court in Upendra Rai's case (Supra). The Full Bench judgment of this Court in Rajeshwar Singh v. State of U.P., has also been relied by the Division Bench while deciding its judgment dated 30.11.2010 as noticed above. For the reasons given by the Division Bench in Vinod Kumar Singh (Supra) this appeal is allowed. The judgment of a learned Single Judge dated 15.7.2004 is set aside and the writ petition filed by the Respondents is dismissed.