

Gorakhnath and Others Vs. State of Uttar Pradesh and Another

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Court : Allahabad

Decided On : Feb-19-2000

Reported in : 2000(2)AWC1210; (2000)2UPLBEC1068

Judge : M. Katju and ;D.R. Chaudhary, JJ.

Acts : Uttar Pradesh Higher Education Services Commission (Procedure for Selection of Teachers) Regulations, 1983 - Regulation 9

Appeal No. : C.M.W.P. No. 741 of 1999

Appellant : Gorakhnath and Others

Respondent : State of Uttar Pradesh and Another

Advocate for Def. : S.C., ;H.R. Mishra and ;Nripendra Mishra, Adv.

Advocate for Pet/Ap. : Ashok Khare, Adv.

Judgement :

M. Katju and D.R. Chaudhary, JJ.

1. Heard learned counsel for the parties.

2. The petitioners have prayed for a writ of mandamus directing the respondents to hold a preliminary written test in screening the candidates for consideration in pursuance to advertisement No. 26 issued by the U.P. Higher Education Service

Commission for consideration on the post of lecturers in Hindi, Ancient History and Sanskrit in accordance with the decision taken by the Commission and further for a mandamus directing the respondents to interview all candidates who have passed the National Eligibility Test conducted by the University Grants Commission.

3. Sri Ashok Khare, learned counsel for the petitioners firstly submitted that since the U.P. Higher Education Service Commission hastaken a decision that written test be held, it is not open to the Commission to make selection without the written test. In para 12 of the counter-affidavit, it is stated that the Commission can hold a test only when the financial implications are approved by the State Government as per Regulation 9 of the U.P. Higher Education Services Commission (Procedure for the Selection of Teacher) Regulations, 1983. Sri Khare has submitted that the Commission is an autonomous statutory body which has taken a decision to hold a written test and it is not bound to take approval of this decision from the Government. This is true, but if the Commission itself decided to make its decision to hold a written test subject to approval by the State Government, this Court cannot interfere.

4. It must be understood that this Court has only a limited power of judicial review of administrative decisions, vide *Tata Cellular v, Union of India*, AIR 1996 SC 11. The Wednesbury principle, referred to in the above decision, is not attracted to the facts of the present case. The Commission has its own difficulties, and this Court cannot interfere in such matters unless there is total arbitrariness or discrimination. We find no arbitrariness or discrimination in the present case, as there are financial constraints with the Commission. In the present case, it can also not be said that since the petitioners have passed the National Eligibility Test, they should have been called for the interview. There is no such legal requirement.

5. In our opinion, it is open for the Commission to lay down any objective principles for holding the test. However, the petitioners maymake a representation to the Commission, if they so desire and it is directed that within a week from the receipt of such representation, the Commission will decide such representation in accordance with law.

6. With these directions, the writ petition is disposed of.

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