

Raj Singh Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Sep-15-2000

Reported in : 2000(4)AWC3069; (2000)3UPLBEC2752

Judge : A.K. Yog, J.

Acts : Uttar Pradesh Secondary Education Services Commission Act, 1982 - Sections 12, 18 and 32A(1); [Constitution of India](#) - Article 226

Appeal No. : C.M.W.P. No. 41577 of 2000

Appellant : Raj Singh

Respondent : State of U.P. and Others

Advocate for Def. : R.A. Verma, Adv. and ;S.C.

Advocate for Pet/Ap. : Pushpendra Singh Yadav, Adv.

Judgement :

A. K. Yog, J.

1. Petitioner. Rai Singh, being seniormost Lecturer in R. P. Inter College, Kamalganj, Farrukhabad, a recognised Government aided educational Intermediate College seeks to place his claim by means of present writ petition under Article 226, [Constitution of India](#), on the regular vacant post of Principal of

the College on the retirement of Gajraj Singh who was given ad hoc/officiating appointment on the post of Principal of the College on the basis being seniormost Lecturer.

2. Learned counsel for the petitioner, on the basis of admitted facts, submitted that Mahesh Chandra Verma, respondent No. 5, who has been selected by U. P. Secondary Education Commission on regular basis after facing interview, etc. and having been found the best suitable candidate should not be permitted to join the institution. Learned counsel for the petitioner, however, expresses ignorance as to whether present petitioner, Rai Singh, had applied in pursuance to the advertisement issued by the Commission and if so, whether he participated in the selection process for appointment on the post of Principal by the Commission. It appears that initially Mahesh Chandra Verma, respondent No. 5 was sought to be appointed on the post of Principal in the College on the basis of his regular selection by the Commission ; it was resisted by the then ad hoc/officiating Principal Gajraj Singh, who claimed regularisation in view of Section 32A(1) of U. P. Secondary Education Service Commission Act, 1982 ; as is evident from the perusal of judgment and order dated 12.4.1999 of learned single Judge in Writ Petition No. 29608 of 1996, Gajraj Singh v. State of U. P. and others) ; copy of which has been annexed as Annexure-1 to the writ petition. Learned single Judge upheld the claim of Gajraj Singh to continue as regular Principal of the College and permitted the recommended candidate of the commission respondent No. 2 in the writ petition of Gajraj Singh to file representation before District Inspector of Schools for seeking appointment in another institution. The said judgment and order dated 12.4.1999 of learned single Judge was challenged by Mahesh Chandra Verma, respondent No. 6 in this petition by filing Special Appeal No. 388 of 1999. The Division Bench of this Court vide order dated 8.12.1999 admitted the special appeal and stayed the operation of the judgment and order dated 12.4.1999 (Annexure-1 to the writ petition) of learned single Judge, said order dated 8.12.1999 has been annexed as Annexure-4 to the writ petition. Since Gajraj Singh has attained the age of superannuation and retired, the post of Principal is now available and there is no obstacle before respondent No. 6 in joining the post of the Principal of the college.

3. The submission of the petitioner, Rai Singh that he is in the same position as was Gajraj Singh in Writ Petition No. 29608 of 1999 is misconceived. Gajraj Singh claimed not as seniormost Lecturer to hold the post of Principal, but on the ground of his maturing right under Section 32A (1). U. P. Secondary Education Services Commission Act. 1982. as Principal. Since Special Appeal was filed and the judgment of learned single Judge has been challenged, the judgment of learned single Judge cannot be said to have attained finality. Gajraj Singh, due to attaining age of superannuation, has automatically disappeared from the scene and is no more there to hold said post as principal of the College. Now there is no impediment in the way of respondent No. 6 to join the post of Principal in the college, which is now vacant.

4. Contingency of making ad hoc officiating appointment on the post of Principal against the regular vacancy arises only when a regular appointee by the Commission is not available. There is no question of giving appointment to the seniormost lecturer of the college to officiate on ad hoc basis on the post of Principal when there is no vacant post to be filled up by regular appointee.

5. Apart from complete absence of pleadings regarding petitioner (Raj Singh) having taken chance for regular selection, writ petition is apparently not maintainable on two scores. Firstly, petitioner has no locus standi to assail 'selection' by Commission as he never applied nor shown concern in any manner with it and, therefore, he cannot be allowed to challenge said regular selection process of the Commission. Secondly, if the petitioner has any grievance, he should seek substitution impleadment as 'appellant' in the aforementioned Special Appeal No. 388 of 1999.

6. Learned counsel for the caveator-applicant informs that petitioner had filed some application for impleadment in the said special appeal (which is not denied or disputed by the present petitioner). The said fact has, however, not been disclosed in the writ petition. Petitioner is, thus, guilty of concealment of facts, which disentitle him to seek relief under Article 226. [Constitution of India](#).

7. Writ petition is devoid of merit and, therefore, dismissed.

8. No order as to costs.

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