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ALLAHABAD HIGH COURT (LUCKNOW BENCH)

PRATIBHA DWIVEDI — Appellant

Vs.

STATE OF U.P.AND OTHERS — Respondent

(Before : Shri Narayan Shukla, J)

Writ petition No.5084 (S/S) of 2011

Decided on : 16-08-2011

A. Education Law — Shiksha Mitra — Untrained Teachers — Eligibility for Training — Government Order dated 11.7.2011 — Shiksha Mitras who completed graduation (B.A./B.Ed.) during their service, whether through regular or distant education, with permission from the Village Education Committee, are entitled to receive training under the Government Order dated 11.7.2011, which aims to provide training to untrained graduates. (Paras 2, 4, 5, 9)

B. Education Law — Shiksha Mitra — Upgradation of Qualification — Village Education Committee's Permission — A Shiksha Mitra who completed a B.Ed. course, even through a regular course, with the permission of the Village Education Committee (appointing and supervising authority), and continued to serve without hampering children's education, is entitled to have their upgraded qualification recognized for training purposes, irrespective of whether the Government Order explicitly permits regular course leave. (Paras 3, 7, 8, 9, 11)

C. Education Law — Shiksha Mitra — Recognition of B.Ed. Qualification — Denial of Training — Decision to deny training to a Shiksha Mitra on the sole ground that they completed a B.Ed. course during their service is arbitrary and unsustainable, especially when the intent of government orders is to

facilitate training for all graduate Shiksha Mitras to minimize untrained teachers. (Paras 5, 6, 9, 13)

D. Public Policy — Government's Aims and Objects — Minimizing Untrained Teachers — When the government takes a decision to facilitate education upgradation for Shiksha Mitras to reduce the number of untrained teachers, the upgraded qualifications, obtained with proper permission, should be honored to fulfill the government's objectives and improve the career prospects of Shiksha Mitras. (Para 9)

JUDGMENT

Shri Narayan Shukla,J.

1. Heard learned counsel for the parties.
2. The main controversy which is involved in the instant writ petition for consideration is whether Shiksha Mitras, who completed their graduation during the course of working as Shiksha Mitras but are on untrained teachers, are entitled to receive training under the strength of the Government Order dated 11.7.2011?
3. In the case on hand the petitioner was appointed on Shiksha Mitra on 5.3.2003 with the recommendation of the Village Education Committee. Admittedly, the petitioner was graduate at the time of appointment on the post of Shiksha Mitra, but she completed B.Ed course with the permission of the Village Education Committee, during the course of the academic session 20082009. The petitioner was also granted leave by the Village Education Committee to complete the aforesaid course for the period from 8.8.2008 to 10.4.2009.
4. The State Government issued Government Order dated 11.7.2011 to facilitate the training to all the Shiksha Mitras, who are graduates. The Government Order dated July, 2000 prescribes the minimum qualification for appointment on the posts of Shiksha Mitras intermediate. Thus, the Government Order dated 11.7.2011 facilitates the training of all those Shiksha Mitras, who completed their graduation either prior to their appointments or thereafter. The Government Order dated 12.11.2008 permits Shiksha Mitras to upgrade them through distant education by granting leave without pay for the days of examination. Thus, it is not in dispute that the Shiksha Mitras who possess only intermediate qualification are permitted to complete graduation during the course of working as Shiksha Mitras but through a distant education.
5. So far as the candidates, who were appointed after completion of their graduation and completed B.Ed course during the course of their working as Shiksha Mitras, have not been debarred from training under the Government Order dated 12th November, 2008 is concerned, they had possess the graduation before their appointments as Shiksha Mitras.

Therefore, I am of the view that the completion of B.Ed course during the course of working as Shiksha Mitra does not debar from receiving training of Shiksha Mitra. The purpose of the Government Order dated 11.7.2011 is to provide training to the candidates who are untrained graduates, I am informed that for appointments of teachers in the primary schools, the candidates who possess the B.Ed qualifications, the State Government has framed a scheme to provide them special training programme of B.T.C. for six months.

6. Similarly, the Shiksha Mitras are also imparting the education in the primary schools and if they possess the B.Ed qualifications, they are entitled to undergo for special training programme, but in the present case since the petitioner claims her eligibility for full training programme which is of two years on the basis of her intermediate qualification, she cannot be debarred from training only for the reason that she completed B.Ed course during the course of the working as Shiksha Mitra.

7. The question arises what would be the fate of the Shiksha Mitras who completed their graduation during the course of working as Shiksha Mitras with the permission of the Village Education Committee through regular course.

8. It is not in dispute that the facilities of upgradation of education to Shiksha Mitras are provided under the Government Order dated with permission of Village Education Committee and also the leave for the period of examination.

9. Keeping in view the aforesaid facts, I am of the view that though the Government Order dated 12.11. 2008 does not permit the leave to Shiksha Mitras to upgrade their education, but once they have been permitted by the Village Education Committee, who is appointing and supervising authority of the village education without hampering the education of the children as they have completed their education, after completion of their education, they have also been permitted to rejoin their services and they are continuing as such and they are being paid salary from the State Exchequer. Keeping in view this fact, I am of the view that their upgraded education cannot be ignored for the purpose of training programme, only because the Government Order does not provide so. Once the Government took a decision to provide the facility to the Shiksha Mitras to upgrade their education in order to minimize the untrained teachers, I am of the view that to fulfill the aims and objects of the government of all the Shiksha Mitras, who are graduates on the date of consideration for training either they have completed their education prior to the date of appointments or later on with the permission of Village Education Committee as Shiksha Mitras even as regular course are entitled to receive the training.

10. This Court at Allahabad in Writ A No. 48467 of 2010 declined to permit rejoining of the candidates who proceeded for completion their B.Ed. regular course. But, in the present case the candidate before me has already completed his B.Ed. course and she is still working as Shiksha Mitra. So far as the order passed by this Court in Writ Petition No. 3328 of 2011 (S/S) is concerned in the said case it has been observed that the Village Education Committee was not competent to grant study leave and if the committee has

acted in violation of the scheme or against the interest of the scheme, neither any benefit can be given nor any protection can be extended to the appellant for that reason. Whereas the Government Order dated 12th November, 2008 empowers the village education committee to grant leave but difference is that only for the distant education.

11. Looking into the facts and circumstances of the case, I am of the considered opinion that if the Village Education Committee grants permission even for regular course and the Shiksha Mitra completes education, the same cannot be ignored for the purpose of their career for the reason that the candidates completed their course through regular education. Only the apprehension which has been shown by the Hon'ble Judge that since the Shiksha Mitras are appointed to impart education to the primary school's children and the period for appointment is of only one year and during this period if they are granted leaves to upgrade their education through regular course, the education of children shall be hampered.

12. It is not in dispute that the Government Order provides procedure for appointment of Shiksha Mitras and also permits the renewal of their appointments and ensures their continuation after getting renewed, who are working since so many years as the present case is, therefore, I am of the view that upgraded their education through regular process without hampering the education should be honoured and the education received by the Shiksha Mitras should be acknowledged to ensure the improvement of their job careers.

13. Under the circumstances, I hereby quash the order impugned dated 4.8.2011 passed by the opposite party no.4 as contained in annexure No.1 to the writ petition and issue a writ of mandamus to the respondents to acknowledge and recognize the petitioner's qualification of B.A/B.Ed for the purpose of training.

14. In the result, the writ petition is allowed.

(Petition allowed)