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ALLAHABAD HIGH COURT (LUCKNOW BENCH)

SANDEEP KUMAR SINGH — Appellant

Vs.

STATE OF U.P.& ORS. — Respondent

(Before : S.N.Shukla, J)

Writ Petition No. 6400 (S/S) of 2006

Decided on : 13-09-2006

A. Service Law — Appointment — Shiksha Mitra — Selection and Training — Petitioner duly selected, approved at District Level, and completed training for Shiksha Mitra post — Name appeared in approved list — Not issued appointment letter despite consent — Another candidate, initially not considered resident of the village, later appointed based on new report — Allegations of manipulation and improper inquiry regarding the residency of the other candidate. (Paras 3, 4, 5, 6)

B. Service Law — Appointment — Quashing of competing appointment and direction for petitioner's appointment — Mandamus against public authorities — Where a candidate is duly selected, approved, and trained, and there are strong indications of manipulation or improper inquiry leading to the appointment of another candidate, despite the initial finding that the other candidate was not resident of the concerned village, the court can issue a mandamus directing the authorities to appoint the duly selected candidate. (Paras 6, 7)

JUDGMENT

Shri Narayan Shukla, J.—Heard Mr. Prashant Singh 'Atal', learned Counsel for the petitioner, learned Standing Counsel for respondents No. 1 to 3 and Mr. Shri Chandra Mishra, learned Counsel for the respondent No. 4.

2. By means of the present writ petition, the petitioner has prayed for a writ of mandamus commanding the respondents to appoint the petitioner on the post of Shiksha Mitra, at Primary School Shyampur, Block Kheeron, Tehsil Lalganj, District Raebareli.

3. Brief facts of the case are that the petitioner having been selected after following prescribed procedure and in accordance with the Government Order dated 10/10/2005 and sent for training for Shiksha Mitra, is not being appointed on the post of Shiksha Mitra, though he has given consent for the same on the prescribed form. He has filed copy of letter sent by the Special Basic Shiksha Adhikari, Raebareli to the Principal, District Education and Training Institute, annexing therewith the list of approved Shiksha Mitra at the District Level for the year 2005/2006, in which his name finds placed at serial No. 14. He has also completed requisite training and in support of it, he has filed copy of the certificate issued by the Principal, but even then he has not been issued appointment letter. In this connection, he approached Basic Shiksha Adhikari on 6/2/2006 but his representation has not been disposed of so far.

4. A counter affidavit has been filed on behalf of the respondent No. 4 stating therein that in the select list Vidya Singh, Sangeeta Singh and Sandeep Kumar have been placed at serial No. 1, 2 and 3 respectively but at the time of sending proposal it was found that Vidya Singh is not resident of the village in question, consequently, Sandeep Kumar Singh was nominated for Primary School, Shyampur by the District Level Committee and after granting approval he was sent for training. But vide report dated 23/5/2006 of the S.D.M., Lalganj, it was clarified that Vidya Singh is the original resident of village Haripur Nihastha, hence the petitioner was restrained from taking overcharge and Vidya Singh was sent for training.

5. A rejoinder affidavit has been filed, reiterating the facts mentioned in the writ petition, it is also stated that Vidya Singh is not permanent resident of village Haripur Nihastha but is permanent resident of village Vijauli, Block Devmai, District Fatehpur. No fair inquiry has been conducted by the S.D.M., Lalganj, which is clear from the perusal of Parivar Register and Ration Card Register which have several cuttings therein. It is also stated that Vidya Singh is niece of Shri Satyendra Singh, resident of village Haripur Nihastha. It is apparent from the perusal of Ration Card in which she has been shown as niece in the list of family members of Shri Satyendra Singh.

6. Once the petitioner has been selected and approved at the District Level Committee and by that very time Vidya Singh was not found to be resident of village Haripur, there is no reason not to appoint the petitioner and later on Vidya Singh somehow managed to get appointment. There appears to be some manipulation in the record.

7. In these circumstances, the writ petition is allowed. A writ of mandamus is issued to the respondents to appoint the petitioner on the post of Shiksha Mitra for the village in question.