

Court No. - 37

Case :- SPECIAL APPEAL No. - 1584 of 2013

Appellant :- Amit Tayal

Respondent :- State Of U.P. Thru' Secry. And 3 Others

Counsel for Appellant :- Vashistha Tiwari

Counsel for Respondent :- C.S.C., Akank Jain, Rohit Upadhyaya

Hon'ble Ashok Bhushan, J.

Hon'ble Vipin Sinha, J.

Sri D.P. Singh, Senior Advocate assisted by Sri Vashisth Tiwari, learned counsel for the appellant, Sri Rohit Upadhyaya, learned counsel appearing for respondent no. 5, Sri Akank Jain, learned counsel appearing for respondent no. 4 and learned standing counsel appearing for respondent nos. 1, 2 & 3.

With the consent of learned counsel for the parties, the present special appeal is being finally decided.

The present special appeal has been filed against the order dated 20.09.2013 passed by learned Single Judge in Civil Misc. Writ Petition No. 51536 of 2013 (Ravish Sharma Vs. State of U.P. and Others) by which the learned Single Judge has stayed the operation of the order dated 02.09.2013 to the extent it accords approval to the appointment of Amit Tayal.

Learned counsel for the appellant submits that the selection took place for appointment of lecturer in a recognized minority institution. It is submitted that the District Inspector of Schools (for short "the DIOS") by the order which was impugned in the writ petition had forwarded the recommendation of selection committee/committee of management to the regional selection committee for granting approval so as to start the payment of salary.

The submission is that the regional selection committee is still to apply its mind to take a decision as to whether selection process and the selection is in accordance with law under Section 16-FF and the regulations framed under Chapter-II to the Intermediate Education Act. It is submitted that the appellant fulfilled qualification for the appointment on the post of lecturer and the observation of the learned Single Judge that non preparation of quality points marks as provided in Appendix 'D' has vitiated the selection is not correct.

Sri Rohit Upadhyaya, learned counsel appearing for respondent no. 5 submits that the appeal has been filed only against an interim order. Hence, it may not be entertained.

We have considered the submission of learned counsel for the parties and perused the record.

By the order dated 07.09.2013 the District Inspector of Schools has directed that the recommendation of the selection committee as well as the committee of management in which the appellant has been selected for the post of lecturer Physics be place before the regional selection committee as per the Government Order dated 19.12.2000. In the operative portion of the order, there is no such order that the District Inspector of Schools has approved the selection of the appellant. The District Inspector of Schools has clearly stated power of approval for the purpose of payment of salary is vested in the regional selection committee, hence, the matter is referred.

We are of the view that hence, the matter having been referred to regional selection committee for consideration of the selection process, justice would be subserved in modifying the interim order in providing that the regional selection committee may proceed to examine the selection of the appellant as per recommendation dated 07.09.2013 of the District Inspector of Schools and take appropriate decision in accordance with law under Section 16-FF and the regulations framed under Chapter-II to the Intermediate Education Act. The decision taken by the regional selection committee shall abide by the result of the writ petition. The order dated 20.09.2013 is modified to the above extent.

The appeal is, accordingly, disposed of.

Order Date :- 30.10.2013

Anand