

ITEM NO.34

COURT NO.11

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).9234/2007

(From the judgement and order dated 19.4.2007 in SA No. 361/2007 of The High Court of Judicature at Allahabad)

Om Prakash Pandey and others

Petitioner(s)

VERSUS

Ravi Prakash Pandey and others

Respondent(s)

(With prayer for interim relief and office report)

Date: 03/05/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. Rajiv Mehta, Adv.

For Respondent(s) Ms. Anuradha Dubey Mishra, Adv.
Ms. Tulika Mukherjee, Adv.
Mr. P. Narasimhan, Adv.

UPON hearing counsel the Court made the following

O R D E R

This is a petition for setting aside order dated 19.4.12007 passed by the Division Bench of Allahabad High Court in Special Appeal No. 361/2007 whereby it declined to interfere with the direction given by the learned Single Judge to decide the representation of the private respondents.

The petitioners are working as Assistant Teachers in the primary section of Shri Sarwar Sanskrit Adarsh Mahavidyalaya, Kishoreganj, Salempur, District Deoria. They filed Civil Miscellaneous Writ Petition No. 26027/1996 for issue of a direction to the

2

management of the school to pay them salary in the regular time scale with other consequential benefits. The same was allowed by the learned Single Judge on 1.11.1996 in terms of the judgment in Ramesh Upadhya and another v. State of U.P. and others (1993) 2 UPLBEC 945.

After about one year, respondent Nos. 1 to 12 filed Civil Miscellaneous Writ Petition No. 24332/1997 for directing respondent No.1 to pay salary in the scale prescribed for the post of Assistant Teacher. The learned Single Judge of the High Court disposed of that petition vide order dated 3.1.2007, the operative portion of which reads as under:

"Under the above facts and circumstances,

without going into the merit of the case, I hereby direct the State Government/Inspector, Sanskrit Pathshala, Allahabad to consider and decide the representation of the petitioner, expeditiously, may by 30th June 2007 after taking into consideration the law laid down by this court in the case of Ramesh Upadhyaya & others Vs. State of U.P. & others (1992 (2) U.P.L.B.E.C. 945) and the case of Om Prakash Pandey & others Vs. State of U.P. And others (in writ petition No. 26027 of 1996 decided on 1.11.1996 and after affording opportunity to all the persons including Om Prakash Pandey and ten others."

Although, the aforementioned order did not, in any manner adversely affect the petitioners, they challenged the same in Special Appeal No. 361/2007, which was dismissed by the Division Bench with an observation that their interest has been safeguarded by providing them opportunity of hearing.

We have heard learned counsel for the parties and perused the record. In our view, the order passed

3

by the learned Single Judge whereby direction has been given to respondent No.1 to consider the representation made by the writ petitioners and decide the same after taking into consideration the law laid down by the High Court in Ramesh Upadhyaya and another v. State of U.P. and others (1993) 2 UPLBEC 945 and order dated 1.11.1996 passed in Om Prakash Pandey and ten others vs. District Inspector of Schools, Deoria - Civil Miscellaneous Writ Petition No. 26027 of 1996 does not suffer from any legal infirmity and the Division Bench of the High Court rightly declined to interfere with the same.

The special leave petition is accordingly dismissed.

Needless to say that if the competent authority passes any order adversely affecting the petitioners then they shall be free to avail appropriate legal remedy.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master