

IN THE SUPREME COURT OF INDIA

INHERENT JURISDICTION

CONTEMPT PETITION (C) DIARY NO.10242/2021

IN

SLP [C] NOS.19561-19562/2019

SUSHIL KUMAR YADAV & ORS.

...PETITIONER(S)

VERSUS

ARADHANA SHUKLA & ORS.

...RESPONDENT(S)/
ALLEGED CONTEMNORS

WITH

Contempt Petition (C) Diary No(s). 11275/2021 in C.A. No. 8300/2016

M.A. Diary No(s). 11891/2021 in Civil Appeal No.8300/2016

CONMT.PET.(C) No. 421/2021 in C.A. No.8300/2016

Contempt Petition (C) Diary No(s).24828/2021 in SLP [C] NOS.19561-19562/2019

O R D E R

Application for permission to file Contempt Petition is rejected in Contempt Petition (C) D. No.24828/2021 in SLP (C) Nos.19561-19562/2019.

The Contempt Petitions/Miscellaneous Application arising out of a plea that the persons whose appointment was approved have still not been paid or persons who have been paid have not been paid after 2018. In those very applications, however, other people now seek to get themselves impleaded.

In our view, the whole thing rests on the issue as to whether the process has been followed as stated aforesaid or not. If no process has been followed, there can be no flow of monetary benefits. If the process has been followed then both weightage and monetary benefits would arise in their case.

With the aforesaid observations, we close all pending applications and Contempt Petitions and make it clear that no further applications will be entertained in these proceedings.

The Contempt Petitions and the Miscellaneous Application are closed. Learned counsels present today will be permitted to assist us in the conspectus of the aforesaid.

Pending applications stand disposed of.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[M.M. SUNDRESH]

NEW DELHI;
NOVEMBER 09, 2021.

ITEM NO.2

COURT NO.6

SECTION III-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Miscellaneous Application No.818/2021 in C.A. No. 8300/2016

SANJAY SINGH & ORS.ETC.

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH & ORS.ETC.

Respondent(s)

([FOR COMPLIANCE])

IA NO.66573/2021- APPLICATION FOR EXTENSION OF TIME

IA NO.66574/2021- EXEMPTION FROM FILING O.T.

WITH

Contempt Petition (C) Diary No(s). 10242/2021 SLP [C] NOS.19561-19562/2019 (XI)

Contempt Petition (C) Diary No(s). 11275/2021 in C.A. No. 8300/2016 (III-A)

IA No. 58373/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 70899/2021 - INTERVENTION/IMPLEADMENT)

M.A. Diary No(s). 11891/2021 in Civil Appeal No.8300/2016 (III-A)

(FOR MODIFICATION OF COURT ORDER ON IA 61452/2021

FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 61454/2021

CONMT.PET.(C) No. 421/2021 in C.A. No. 8300/2016 (III-A)

IA No. 71344/2021 - EXEMPTION FROM FILING AFFIRMED AFFIDAVIT)

Contempt Petition (C) Diary No(s). 24828/2021 in SLP [C] NOS.19561-19562/2019 (XI)

IA No. 140913/2021 - APPLICATION FOR PERMISSION TO FILE CONTEMPT PETITION)

Date : 09-11-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s) Mrs. V. Mohana, Sr. Adv.

Ms. Parul Shukla, AOR

Ayushma Awasthi, Adv.

Ms. Kirti Aggarwal, Adv.

Ms. Preetika Dwivedi, AOR

Mr. Sakha Ram Singh, Sr. Adv.

Ms. Tanya Agarwal, Adv.

Mr. Durga Das Vashisht, Adv.

Mrs. Shubhangi Tuli, AOR

	Ms. Tanya Agarwal, Adv. Mr. Durga Das Vashisht, Adv. Mrs. Shubhangi Tuli, AOR
For Respondent(s) R-6	Mr. Vikash Singh, Sr. Adv. Mr. Ajay Kumar Singh, AOR Mr. Yatharth Singh, Adv.
State of UP	Mr. Harish Pandey, AOR Mr. Mareesh Pravir Sahay, AOR Mr. Harsh Mahan, Adv. Mr. O.P. Singh, Adv. Mr. T. Parshad, Adv. Mr. Lalit Chahar, Adv. Mr. Prakash Kumar Singh, AOR
Impleadment	Mr. Prashant Shukla, Adv. Mr. Suyash Srivastava, Adv. Ms. Shreya Mishra, Adv. Mr. Satyajeet Kumar, AOR

UPON hearing the counsel the Court made the following
O R D E R

Miscellaneous Application No.818/2021 in C.A. No. 8300/2016

Application for exemption from filing official translation is allowed.

The compliance affidavit filed on behalf of respondent No.6/U.P. Secondary Education Service Selection Board has been perused. The selection process has been carried out. Recruitment has been completed. The process of further recruitments dependent on current and prospective vacancies should be an ongoing process which must be carried out by the respondent No.6. The aforesaid takes care of the compliance by respondent No.6.

However, there is one concern expressed arising from the fact that only one of the *ad hoc* teachers was selected.

We have put to learned counsel for the petitioners that if the people do not qualify, we can do nothing about it as it is competitive examination. Linked to this issue is the plea that a perusal of the applied and selected *ad hoc* teachers would show that 1436 *ad hoc* teachers applied, 126 were given weightage and one was selected. Issue now sought to be raised is as to why more than 1300 teachers were not given any weightage.

The aforesaid aspect has to be dealt with by the State of Uttar Pradesh as they had verified the aspect of giving weightage. In this behalf, learned counsel for the State has again drawn our attention to the order dated 26.08.2020 and referred to Section 16E (11) of the Intermediate Education Act, 1921. The said Section reads as under:

“16E.(11) Notwithstanding anything contained in the foregoing sub-sections, appointments in the case of a temporary vacancy caused by the grant of leave to an incumbent for a period not exceeding six months or by death, termination or otherwise of an incumbent occurring during an educational session, may be made by direct recruitment or promotion without reference to the Selection Committee in such manner and subject to such conditions as may be prescribed:

[Provided that no appointment made under this sub-section shall, in any case, continue

beyond the end of the educational session during which such appointment was made]”

It is thus, stated that for *ad hoc* appointments also through a process of direct recruitment, it pre-supposes a selection process. That selection process in the given situation, would have been carried out by the College. The selection process would, needless to say, require at least an advertisement to be published pursuant whereto the applications would have been filed. This would have resulted in a merit list of such persons. Of course, the fact remains that on that *ad hoc* basis they have continued for over a long period of time. A reading of the details seeks to suggest that only 126 persons have been appointed after selection process, something which is sought to be contradicted by the candidates.

To put a quietus to the issue and not let another round of litigation now start on it, we would like the State Government to file an affidavit whether the principle as understood and enunciated by us aforesaid has been followed, i.e. whether the persons who have been appointed on an *ad hoc* basis after the advertisement and drawing up of the selection list have all been accordingly granted weightage or not. The affidavit be filed within two weeks.

List for directions/compliance *qua* the State Government on 07.12.2021.

2.1 Contempt Petition (C) Diary No(s). 10242/2021 in SLP (C) Nos.19561-19562/2019 (XI)

2.2 Contempt Petition (C) Diary No(s). 11275/2021 in Civil Appeal NO.8300/2016 (III-A)

2.3 Miscellaneous Application Diary No(s). 11891/2021 in Civil Appeal No.8300/2016 (III-A)

2.4 Contempt Petition (C) No.421/2021 in C.A. No. 8300/2016(III-A)

2.5 Contempt Petition (C) Diary No(s).24828/2021 in SLP (C) Nos.19561-19562/2019

Application for permission to file Contempt Petition is rejected in Contempt Petition (C) D. No.24828/2021 in SLP (C) Nos.19561-19562/2019.

The Contempt Petitions and the Miscellaneous Application are closed in terms of the signed order.

Pending applications stand disposed of.

(ASHA SUNDRIYAL)
ASTT. REGISTRAR-cum-PS

(POONAM VAID)
COURT MASTER (NSH)

[Signed order is placed on the file]