

State of Andhra Pradesh and Another

Vs

Dr. Mohanjit Singh and Another

Civil Appeal No. 3865 of 1986

(Ranganath Misra, L.M. Sharma JJ)

14.01.1988

ORDER

1. The short question raised in this appeal at the instance of the State of Andhra Pradesh by special leave is as to whether there can be a valid selection by the body constituted under government order dated September 21, 1976 when there is no quorum.

2. The short facts are that respondent 1, Dr. Mohanjit Singh, appeared at a selection for the post of Principal in the N.M. College, Jogipet. At the meeting for this selection, the representative of the Director of Higher Education was not present, though two representatives of the management of the college and two professors of the University participated. The District Education Officer who was to represent the Director of the Higher Education was absent but he agreed with the selection by later ratifying the proceedings. The State Government did not accept the selection and since the respondent had already been appointed as Principal before the government order came he was reverted. The State Administrative Tribunal having set aside government order, this appeal has to be carried.

3. The Government Order dated September 21, 1976, as far as relevant, provided :

To ensure that the colleges do not suffer for want of teachers till the College Service Commission is set up and starts its work, the managements shall be given the option to employ on a stop gap basis Lecturers and Principals other than those who are recruited by the Central Recruitment Agency. In those cases the teachers must be selected by a selection committee (an not by the Managing Committee itself) consisting of two representatives of the Management, two Professors or Readers representing the University to which the college is affiliated and a representative of the Director of Higher Education. The presence of at least one representative of the University and the representative of the Director of Higher Education in the Selection Committee meeting should be regarded as essential for completing the quorum.

The government order being clear as to the constitution of the committee to function as the selection body, in the absence of the representative of the Director of Higher Education, it cannot be said that there was a proper selection committee constituted on the date when respondent 1 was selected. Ratification by the District Education Officer at a later point of time cannot validate the proceedings of the selection committee as there was no quorum and in its absence, the committee was not entitled to transact business. The government order makes it clear that the selection committee is intended to function as a body. In case all the members were present at the selection there would

have been scope for exchange of views when the candidates appeared and the selection would have been in terms of the scheme. Once a decision is taken and the absentee member is called upon to ratify the conclusion already reached, it becomes a very different type of activity. We are, therefore, not prepared to accept the decision of the Administrative Tribunal on principle that the subsequent ratification constituted valid selection.

4. In the facts of the present case, the respondent who had already been given the benefit of selection on the basis of ratification was reverted to the post of Lecturer after working as Principal for some time when government interfered in the matter. In the circumstances, while we make it clear that in the absence of a quorum, the selection committee cannot function under the scheme envisaged by Government Order dated September 21, 1976, in the peculiar facts of this case, the respondent may be given the benefit of the selection within two months from today. It would be open the government to give him posting as Principal in any college where vacancy is available. He shall be posted as Principal on the basis that he had been selected but he shall be entitled to get salary of Principal when he starts working as such.

5. Hearing fee is assessed at Rs. 2000 in view of the order made at the time when leave was granted. The respondent would be entitled to recover the amount from the appellant.

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