

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.10488 OF 2025
(Arising out of SLP(Civil)No.7736 of 2023)

STATE OF U.P. & ORS. ...Appellant(s)

Vs.

SANT RAM & ORS. ...Respondent(s)

O R D E R

Leave granted.

2. The challenge in the present appeal is to the order¹ passed by the High Court² in Special Appeal Defective No.18 of 2023, vide which the order³ passed by the Single Bench of High Court in Writ Petition (Service Single) No.2207 of 2013 was upheld.

3. Respondent No.1 had approached the High Court by filing the Writ Petition challenging the order⁴ of the Government whereby his claim for appointment to the post of Assistant Teacher in the Scheduled Caste Category was rejected.

4. Briefly, the facts available on record are that the

1 Dated 18.01.2023

2 High Court of Judicature at Allahabad, Lucknow Bench

3 Dated 21.01.2021

4 Dated 04.03.2013

School Management/respondent No.2 had issued an advertisement on 17th December, 2009 inviting applications for the post of Assistant Teacher in the Scheduled Caste Category. Respondent No.1 was selected. The recommendation was sent by the Management to the Government vide letter dated 18th January, 2010. As claimed by the Management, no response having been received from the District Basic Education Officer⁵ within 30 days in terms of Rule 10(5)(b) (iii) of the Uttar Pradesh Recognized Basic Schools (Junior High Schools)(Recruitment and Conditions of Service of Teachers) Rules, 1978⁶, there was deemed approval of the proposal. Hence the Management had issued appointment letter to respondent No.1 on 8th March, 2010. However, the stand of the appellant is that the recommendation of the Management for appointment of respondent No.1 was received in the office on 29th January, 2010 and the same was responded to with certain queries vide communication dated 24th February, 2010. Hence, the argument raised to claim that there was deemed approval of the proposal cannot be accepted.

5. Subsequent event which had taken place after appointment of respondent No.1 by the Management is that a complaint was filed by one Shri Ramesh Chandra with the appellant and taking action on that, vide letter dated 25th October, 2010, the selection process for the post in question was cancelled.

5 Hereinafter referred to as "the DBEO"

6 Hereinafter referred to as "the 1978 Rules"

6. The aforesaid communication was challenged by respondent No.1 by filing Writ Petition No.8082 of 2010. The same was allowed by the High Court vide order dated 7th August, 2012 holding that the order impugned therein was passed in violation of principles of natural justice. The matter was remitted back. It was thereafter that the order dated 4th March, 2013 was passed, which is subject matter of dispute in the present litigation.

7. Learned counsel for the appellants submitted that recommendation of the Selection Committee for appointment to the post of Assistant Teacher was received in the office of the DBEO on 29th January, 2010 for which entry was made in the Receipt Register at Serial No.6791. The Register was maintained in due course in the office. If considered from the date of receipt, the request was responded to with certain objections to the Management vide letter dated 24th February, 2010. Hence, it was not a case of deemed approval as objections were raised by the appellants within 30 days from the date of receipt of letter. Issuance of appointment letter to respondent No.1 on 8th March, 2010 was without any approval from the Government. Hence, the appellants are not liable to pay any salary and his appointment cannot be approved.

8. Second action was taken regarding cancellation of the selection process by finding infirmities therein on a complaint filed by Shri Ramesh Chandra raising issue that

the committee did not allow him to participate in the selection process. Even if that part is ignored, still on the first issue, the objections having been raised by the appellants on the proposal within the permitted time, the appointment could not have been made.

9. On the other hand, learned counsel for respondent Nos. 2 and 3/Management submitted that the findings recorded by the High Court cannot be disturbed wherein it is held that the Receipt Register produced by the appellants could not be relied upon, as it does not mention the name of the person who had received the letter. Further, it was opined therein that the Receipt Register was not produced along with the reply filed to the Writ Petition as it was placed before the Court only during the course of hearing of the intra-Court appeal. He further submitted that the issue of approval raised by the appellant was not subject matter of challenge before the High Court, hence, cannot be permitted to be raised.

10. Learned counsel for respondent No. 1 submitted that the proposal of the Management having not been responded to within 30 days, after deemed approval, he was issued appointment letter on 8th March, 2010. As a consequence, he joined on 12th March, 2010. But irony is that he has not been paid any salary till date. He is working without salary for the last more than 15 years.

11. After hearing learned counsel for the parties, we find merit in the present appeal.

12. On a perusal of documents placed on record along with the paper book, it is evident that the Management had sent a proposal for approval of the selection made in terms of the advertisement issued on 17th December, 2009 for the post of Assistant Teacher, vide communication dated 18th January, 2010. As per the copy of the 'Received Letter Register' annexed as Annexure R-2 with the rejoinder affidavit, at Serial No.6791, there is a receipt entry of the aforesaid communication in the office of the DBEO. A perusal of the register shows that the same has been maintained in due course with no interpolation. There is no response filed by the respondents to the aforesaid document placed on record. In fact, this was placed on record before the High Court when the intra-Court appeal was being heard. However, the High Court discarded the same on an erroneous assumption that the name of the person who had received the letter has not been mentioned. We may only clarify that it was a receipt register in the office where entry of documents/letters received was mentioned. It was not a dispatch register where the name of the person who had been served with the communication/letter needed to be mentioned. Thus, it is established on record that the letter of the Management was received in the office of the competent

authority on 29th January, 2010. In terms of Rule 10(5)(b) (iii) of the 1978 Rules, if the DBEO does not communicate the decision within one month from the date of receipt of the papers under clause (4), he shall be deemed to have accorded approval to the recommendations made by the Selection Committee. The relevant provision is extracted below:

“(iii) If the District Basic Education Officer does not communicate his decision within one month from the date of receipt of the papers under clause (4), he shall be deemed to have accorded approval to the recommendations made by the Selection Committee.”

13. As in the case in hand, the proposal was responded to with certain queries by the appellants within 30 days from the date of receipt thereof, it cannot be said to be a case of deemed approval. In any case, before the appointment letter was issued to respondent No.1 on 8th March, 2010, the Management had already received the objections raised by the DBEO, which mentioned three queries, namely:

“1. The percentage of marks obtained by the candidates on the selection proposal has been calculated incorrectly. After checking it and correcting the mistakes, get it signed by the committee members and make it available to this office.

2. Submit a notarized affidavit to the effect that the selected candidate is not a relative of any member of the Management Committee.

3. It should also be mentioned in the affidavit that the same candidates had appeared in the interview dated 30.12.2009 and the application forms had been submitted within time."

14. There is nothing on record to suggest that the aforesaid queries were responded to, except a communication placed on record by the appellants with the rejoinder affidavit as Annexure R-5 dated 25th October, 2010 which mentions that in response to the letter of the DBEO dated 24th February, 2010 an affidavit dated 25th February, 2010 was filed regarding the deficiencies. However, there is nothing on record. It is not the case set up by the Management that the queries were responded to before appointment letter was issued to respondent No.1.

15. The argument raised by the learned counsel for the respondents that the issue regarding deemed approval does not deserve consideration by this Court as the same was not an issue before the High Court is to be noticed and rejected as it was clearly considered and dealt with by the High Court.

16. In view of the aforesaid basic flaw in the issuance of the appointment letter to respondent No.1, treating this to be a case of deemed approval, the orders passed by the learned Single Judge and the Division Bench of the High Court cannot be legally sustained and the same are accordingly set aside.

17. As a consequence, the appointment of respondent No.1 as Assistant Teacher cannot be approved. In case the respondent No. 1 has actually worked, he may claim salary from the management.

18. The appeal is accordingly allowed.

.....J.
(RAJESH BINDAL)

.....J.
(MANMOHAN)

NEW DELHI;
July 29, 2025

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

Petition(s) for Special Leave to Appeal (C) No(s). 7736/2023

[Arising out of impugned final judgment and order dated 18-01-2023
in SAD No. 18/2023 passed by the High Court of Judicature at
Allahabad, Lucknow Bench]

STATE OF U.P. & ORS.

Petitioner(s)

VERSUS

SANT RAM & ORS.

Respondent(s)

(I.R.)

Date : 29-07-2025 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RAJESH BINDAL

HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s) :

Mr. Sanjay Kumar Tyagi, AOR

Mr. Mridul Jain, Adv.

Mr. Pawan, Adv.

Mr. Parvesh Tyagi, Adv.

For Respondent(s) :

Mr. Aditya Kumar Dubey, Adv. (Through V.C.)

Ms. Vijeta Dubey, Adv.

Mr. Devvrat, AOR

Ms. Mukti Chowdhary, Adv.

Ms. Rashmi Singh, AOR

Ms. Anushri Singh, Adv.

Mr. Kunwar Adityavikram Shah, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application, if any, also stands disposed of

(ANITA MALHOTRA)

AR-CUM-PS

(AKSHAY KUMAR BHORIA)

COURT MASTER

(Signed order is placed on the file.)