



2026:AHC:165937

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 44401 of 2008

Hakim Singh Baghel

.....Petitioner(s)

Versus

State of U.P. and Others

.....Respondent(s)

Counsel for Petitioner(s)	: Punit Kumar Gupta, Rajeev Sharma, Som Veer
Counsel for Respondent(s)	: C. S. C.

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. Heard Mr. Kartikeya Agrawal, Advocate holding brief of Mr. Punit Kumar Gupta, learned counsel for the petitioner and Mr. Shailendra Singh, learned Standing Counsel for the State-respondents.

2. This writ petition has been filed with a prayer to quash the order dated 26.07.2008 passed by Respondent No. 2 and a further prayer to direct the respondents to pay the entire salary of the petitioner since the date of grant-in-aid of the said Junior High School.

3. Placing the brief facts of the case, learned counsel for the petitioner submits that the petitioner was appointed as Assistant Teacher in the institution of Respondent No. 4 on 08.07.1998. The petitioner possessed the qualifications of Post Graduate and B.Ed., which he passed in the year 1991 and 1993 respectively. An approval of the ad hoc appointment of the petitioner was granted in the year 2000. Subsequently, the institution in question came on grant-in-aid list in the year 2006. The petitioner was getting salary till the institution came on grant-in-aid list. However, when the salary was not paid, he moved an application before the concerned authorities mentioning about the illegal appointments being made in the institution. He also stated that all the other teachers have been getting salary from the State exchequer from the month of April 2006 except the petitioner. When nothing was done, Writ-A No. 12433 of 2008 was filed, wherein by order dated 04.03.2008, a direction was issued to the competent authority to pass appropriate orders in accordance with law. In compliance thereof, the impugned order has been passed rejecting the claim of the petitioner for

payment of salary on the ground that the petitioner is not a legally selected candidate nor has approval been granted to the appointment.

4. Learned counsel for the petitioner further submits that the petitioner has been appointed in accordance with law and approval has been granted on 23.09.2000. Therefore, the impugned order has been passed without considering the fact that the petitioner has been appointed and has been getting salary from the date of appointment till the institution came on grant-in-aid list in the year 2006. He has also been functioning as Assistant Teacher in the institution upto the satisfaction of the authorities concerned, there being no complaint against him. Despite the aforesaid fact and without considering the documents showing that the petitioner's appointment was approved, the impugned order has been passed, which is illegal, arbitrary and bad in the eyes of law.

5. In view of the peculiar facts and circumstances of the case and the order proposed to be passed hereunder, this Court proceeds to finally decide the matter, with the consent of the counsel for the parties, without issuing notice or calling for a counter-affidavit.

6. Learned Standing Counsel, on the other hand, submits that the institution came on the grant-in-aid list in the year 2000. The petitioner submitted application before the District Basic Education Officer for payment of salary in accordance with the provisions applicable to grant-in-aid institutions. It is further submitted that the petitioner has been illegally appointed as Assistant Teacher without following the due process and procedure prescribed under law and in violation of Rules 7, 9 and 10 of the Rules of 1978. He further submits that in compliance of the order dated 04.03.2008 passed in Writ-A No.12433 of 2008, the petitioner's representation was rejected on the ground that no approval had been granted by the District Basic Education Officer. It is further submitted that the alleged appointment of the petitioner was contrary to Rule 4, 7, 9, 10 and 11 of the Rules of 1978. It is further submitted that the petitioner annexed an approval order dated 23.09.2000, which is totally ambiguous, forged, fabricated and manipulated as no signature of District Basic Education Officer has been made in the approval letter. Hence, the approval order being forged, the appointment of the petitioner was null and void.

7. Learned Standing Counsel further submits that the controversy involved

in the present writ petition is no longer *res integra* and stands concluded by a series of judgments rendered by this Court. He submits that an identical issue was considered in **Civil Miscellaneous Writ Petition No. 2227 of 2000, Deepak Kumar and others v. State of U.P. and others**, which came to be dismissed by judgment and order dated 27.04.2016. The said judgment was assailed in Special Appeal Defective No. 543 of 2021, which was also dismissed by judgment and order dated 29.07.2021, thereby affirming the view taken by the learned Single Judge.

8. Learned Standing Counsel further submits that a similar controversy also came up for consideration before this Court in **Civil Miscellaneous Writ Petition No. 26923 of 2009, (Anendra Singh vs. State of U.P. and others)**, **decided on 15.07.2025**, wherein it was held that the petitioner's appointment had been made in clear violation of Rules 7, 8, 9 and 10 of the Uttar Pradesh Recognized Basic Schools (Junior High Schools) (Recruitment and Conditions of Service of Teachers) Rules, 1978, and, therefore, the claim was rightly rejected.

9. Reliance has also been placed upon the judgment and order dated 13.07.2026 passed by this Court in **Writ-A No. 10075 of 2019, (Vinod Tiwari v. State of U.P. and others)**, wherein this Court observed as follows:-

"39. This Court is unable to accept the submission that non-production of the original dispatch register before the inquiry officer would, by itself, invalidate the inquiry proceedings. The inquiry has been conducted upon verification of the official records by the competent authority itself, and the conclusion that the alleged documents were never issued from the concerned office is founded upon objective material. Judicial review is concerned with the legality of the decision making process and not with substitution of the Court's opinion for that of the competent authority when the findings are based upon relevant evidence and are neither arbitrary nor perverse.

40. Even otherwise, the petitioner's claim is liable to fail on an independent and equally substantial ground. The settled position of law admits of no ambiguity that an appointment made dehors the statutory provisions confers no enforceable right upon the appointee. Public employment is regulated exclusively by the Statute and the rules framed thereunder. An appointment made contrary to the mandatory statutory procedure is void ab initio and incapable of being validated merely because the incumbent was permitted to work or was paid salary for some period.

41. The Supreme Court in *R.N. Nanjundappa v. T. Thimmiah* and another⁸, authoritatively held that where the initial appointment itself is contrary to the statutory rules, the defect goes to the root of the matter and cannot be cured by subsequent events. The Constitution Bench in the case of *Secretary, State of Karnataka & Others v. Umadevi* (3)⁹ reiterated that public employment must strictly conform to the constitutional scheme and statutory requirements and that no right can accrue from an illegal appointment. Likewise, in the case of *A. Umarani v. Registrar, Cooperative Societies & Others*¹⁰, it has been

unequivocally held that salary from the State Exchequer cannot be claimed unless the appointment itself is legally sustainable

....

45. Once the very substratum of the petitioner's appointment disappears, the consequential claim for payment of salary from the State exchequer also necessarily falls to the ground. This Court cannot, in exercise of its writ jurisdiction, direct payment of public money in favour of a person who has failed to establish a lawful appointment in accordance with the governing statutory framework.

46. In view of the above, this Court is of the considered opinion that the writ petition is devoid of merit and does not warrant interference in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. Accordingly, for all the reasons recorded hereinabove, this Court finds no illegality, infirmity or jurisdictional error in the impugned order. The writ petition lacks merit and is, accordingly, dismissed."

10. Perusal of the order sheet goes to show that on none of the occasions, learned counsel for the petitioner has placed any document on record to demonstrate that the procedure prescribed for appointment to the post of Assistant Teacher has been followed. Consequently, there is nothing on record to establish that the petitioner was legally appointed to the said post.

11. In view of the above, this Court is of the considered opinion that the writ petition is devoid of merit and does not warrant interference in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. Accordingly, for all the reasons recorded hereinabove, this Court finds no illegality, infirmity or jurisdictional error in the impugned order. The writ petition lacks merit and is, accordingly, **dismissed**.

12. There shall be no order as to costs.

August 7, 2026
Jitendra/-

(Mrs. Manju Rani Chauhan,J.)