

Girijesh Kumar vs State Of U.P. And 4 Others on 28 February, 2025

Author: Saurabh Shyam Shamshery

Bench: Saurabh Shyam Shamshery

HIGH COURT OF JUDICATURE AT ALLAHABAD

2025:AHC:28054

Reserved - 11/02/2025

Delivered - 28/02/2025

Court No. - 10

Case :- WRIT - A No. - 11681 of 2018

Petitioner :- Girijesh Kumar

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Himanshu Pandey, Sanjeev Singh, Sunil Kumar Pandey

Counsel for Respondent :- Ajay Kumar Srivastava, C.S.C.

Hon'ble Saurabh Shyam Shamshery, J.

1. In present matter, basic contention of petitioner before this Court was that issue for consideration before State-respondents was in regard to seniority of petitioner and one another person viz. Avnindra Kumar Singh, however, a controversy in regard to appointment of petitioner was created and by impugned order dated 22.06.2017, services of petitioner were terminated on a ground that order of approval dated 02.06.2007 of Divisional Committee of Education at Gorakhpur was a forged document as concerned Officer has denied his signature on it.

2. Sri Sanjeev Singh, learned counsel for petitioner has submitted that this is third round of litigation. Earlier when the petitioner was promoted from post of Class-IV to post of Daftari, one Avnindra Kumar Singh filed a writ petition before this Court being Writ A No. 68059/2015, which was disposed of vide order dated 18.12.2015 to consider grievance of said petitioner.

3. In pursuance of above order, Joint Director of Education, Gorakhpur passed an order dated 01.12.2016, whereby appointment of petitioner and said Avnindra Kumar Singh was considered to be based on incorrect and forged documents, therefore, it was directed that both could not be considered for promotion. It was held that order dated 02.06.2007 issued by Divisional Selection Committee was a forged document whereby appointment of petitioner and other person on the post of Class-IV was approved. Signature on said document was also found to be forged, even details of dispatch register were not matched.

4. Aforesaid order was challenged at instance of petitioner by way of filing Writ A No. 732/2017 which was allowed vide order dated 08.02.2017 whereby impugned order therein dated 01.12.2016 was set aside and findings to the extent that order dated 02.06.2007 was forged document and petitioner on post of Class-IV was invalid was quashed and matter was remitted for fresh consideration.

5. In aforesaid circumstances, matter was decided afresh and by impugned order dated 22.06.2017, order dated 02.06.2007 passed by the Divisional Committee was again found to be a forged document that signatory of order has denied his signature. Relevant part of said order is quoted below :-

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impugned order, the approval order dated 2.6.2007 (date wrongly mentioned as 7.2.2006) has been held to be a forged and a manipulated document. It has been observed that the signatures of the Joint Director of Education and the Deputy Director of Education (secondary), VII Region, Gorakhpur on the order appears to have been forged. For coming to such conclusion, concededly the second respondent has not obtained the verification report from the concerned officers who had purportedly passed the order dated 2.6.2007. On the contrary, the communication by the District Inspector of Schools dated 11.9.2008 specifically records that the authenticity of the Order dated 2.6.2007 has been confirmed by the concerned authorities by letter dated 31.7.2008.

The only reasoning contained in the order for having come to the conclusion that the approval order dated 2.6.2007 appears to be a forged one, is that the said order is not entered in the dispatch register. In the opinion of the Court, the same cannot constitute a ground in itself for holding that the order dated 2.6.2007 is a forged one. It could have been a relevant factor in case it is otherwise established on record that the order dated 2.6.2007 had not been passed by the concerned authorities. However, no such finding has been recorded.

The limited controversy before the second respondent was in relation to determination of dispute relating to seniority between the petitioner and the sixth respondent. In the opinion of the Court, in case the second respondent was proceeding to determine the issue relating to authenticity of the order dated 2.6.2007, it was but necessary that the petitioner should have been put to notice about the said fact and his explanation should have been called in that regard. However, concededly the said course was not adopted. Thus, the decision making process was faulty. Consequently, the finding to the extent that the order dated 2.6.2007 is a forged one and that the promotion of the petitioner on the post of Daftari is invalid, cannot be sustained and is hereby quashed. The matter is remitted back to the second respondent for considering the entire aspect of the matter afresh, after giving due notice and opportunity of hearing to the petitioner, the fourth and the fifth respondents or to any other person who is likely to be affected thereby.

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6. Learned counsel for petitioner has further referred that order dated 01.12.2016 passed by this Court that findings so far as order dated 02.07.2006 was forged one was set aside, therefore, there was no reason to reject such findings. Signature was disputed by one of Members of Committee on said order, however, no expert report was sought.

7. Per contra, Sri Santosh Kumar, learned Standing Counsel for State has submitted that once signatory of document dated 02.06.2007 has disputed his signature, therefore, document dated 02.06.2007 was rightly considered to be a forged document.

8. Learned counsel further submitted that in earlier round of litigation, this Court has set aside the findings that order dated 02.06.2007 was forged was only on basis that petitioner was not put on notice and matter was remitted back to consider it afresh on merit again, therefore, it was rightly considered and findings were returned on basis of material available.

9. Heard learned counsel for parties and perused the record.

10. As referred above, this Court vide order dated 01.12.2016 has made certain observations and stated that findings returned in impugned order therein that order dated 02.06.2007 was a forged one was quashed and since matter was remitted back for fresh consideration, therefore, State respondents were at liberty to consider it afresh without taking much influence from order passed by this Court.

11. Order dated 02.06.2007 was signed by 2 Members' Committee viz. Deputy Director of Education and Joint Director of Education, Gorakhpur. Amarnath Verma, the then Joint Director of Education has denied his signature that his signature was forged on said document.

12. I have perused the signature put on the order dated 02.06.2007 by Amarnath Verma as well as signature put on other documents which are annexed along with counter affidavit and from naked eyes, signature put on order dated 02.06.2007 appears to be different. Otherwise also, once author of signature has disputed his own signature, therefore, there is no reason to make a doubt on statement. As such, findings returned that document was a forged cannot be interfered.

13. Next submission that issue was only in regard to seniority and has wrongly extended to scrutinize approval of promotion was considered was an erroneous approach cannot be considered to be a valid and a legal based argument since it is always open for State-respondents to look into matter specifically when there was a allegation of forgery. Signatory of order dated 02.06.2007 has disputed his signature and specifically stated that his signature was forged on said document, therefore, there is no reason to disbelieve him as well as there is no other material that statement of

said officer was malafide as well as he was biased towards petitioner. The Court also takes note about mismatch of details of Dispatch Register, which also goes against the petitioner.

14. Therefore, in light of well settled principle that "fraud vitiates all solemn acts", this Court cannot promote or perpetuate the effect of a fraud.

15. Accordingly, there is no reason to interfere with impugned order, therefore, writ petition lacks merit, hence, dismissed.

Order Date :- February 28, 2025 Sinha_N.

[Saurabh Shyam Shamshery, J.]