



2026:AHC-LKO:49877-DB

**A.F.R**  
**Reserved on 24.04.2026**  
**Delivered on 24.07.2026**

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**SPECIAL APPEAL No. - 288 of 2021**

Jai Ram

.....Appellant(s)

Versus

Sri Prafulla Kumar Mishra and Ors.

.....Respondent(s)

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|---------------------------|----------------------------------------------------------------------------------------------|
| Counsel for Appellant(s)  | : Meenakshi Singh Parihar, Amrendra Nath Tripathi, Ramesh Kumar Srivastava                   |
| Counsel for Respondent(s) | : C.S.C., Chandra Bhushan, Devam Shukla, Neel Kamal Mishra, Sanjay Kumar Sharma, Vijay Dixit |

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**Court No. - 5**

**HON'BLE ALOK MATHUR, J.**  
**HON'BLE AMITABH KUMAR RAI, J.**

**(Delivered By Hon'ble Amitabh Kumar Rai, J)**

**1.** Heard Sri Ramesh Kumar Srivastava, learned counsel for the appellant, learned Standing Counsel for respondent nos.2 to 5 and Sri Vijay Dixit, learned counsel for respondent no.1.

**2.** The instant Special Appeal has been filed by the appellant (Jai Ram) challenging the judgment and order dated 13.08.2021 passed in Writ Petition No. 8702 (SS) of 2017, *Prafulla Kumar Mishra Vs. State of U.P. and Others*.

**3.** The brief facts of the case, as borne out from the record, are that the appellant (Jai Ram), after being selected by the Uttar Pradesh Secondary Education Services Selection Board (*hereinafter referred to as the "Board"*), was appointed to the post of Lecturer (English) on 25.01.1996. Pursuant thereto, he joined on 01.08.1996 as Lecturer (English) in Krishak Inter College, Maholi, District Sitapur, an Intermediate College governed by the provisions of the U.P. Intermediate Education Act, 1921, the U.P. Secondary Education Services Selection Board Act, 1982, and the U.P. High Schools and Intermediate Colleges (Payment of Salaries of Teachers and Other Employees) Act, 1971.

**4.** On the other hand, respondent no.1, Sri Prafulla Kumar Mishra was initially appointed on ad hoc basis to the post of Lecturer (Biology) in the institution on 25.07.1991 against a short-term vacancy. Thereafter, he was regularised by order dated 03.12.2001 with effect from 30.12.2000 under Section 33-F of the U.P. Secondary Education Services Selection Board Act, 1982 (*hereinafter referred to as the "Act, 1982"*). Thus, it is an undisputed fact that the appellant (Jai Ram) was substantively appointed on the post of Lecturer (English) on 01.08.1996, after being selected and recommended by the Board, whereas respondent no.1, Sri Prafulla Kumar Mishra was substantively appointed with effect from 30.12.2000 pursuant to the order of regularisation dated 03.12.2001 passed under Section 33-F of the Act, 1982.

**5.** The appellant (Jai Ram) submitted representations dated 26.12.2014 simultaneously to the District Inspector of Schools (*hereinafter referred to as*

the "DIOS"), Sitapur, and the Joint Director of Education, VIth Region, Lucknow, raising his grievance regarding his seniority in the Lecturer Cadre.

**6.** In furtherance of the appellant's representation dated 26.12.2014, the DIOS, Sitapur, issued a letter dated 08.01.2015 to the Principal of the institution directing him to examine the issue of seniority raised by the appellant. However, nothing transpired and as such the appellant submitted another representation dated 09.09.2015 to the DIOS, Sitapur. Thereafter, the DIOS, Sitapur, issued a letter dated 19.10.2015 to the Principal of the institution referring to the statutory provisions contained in Regulation 3(1)(a), (b), and (c) of Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921, pointing out the irregularity in the seniority list and directing the issuance of a revised seniority list in accordance with the aforesaid provisions. The DIOS, Sitapur sent another reminder on 09.02.2016. The appellant (Jai Ram) also submitted a representation dated 15.09.2016 to the Joint Director of Education, VIth Region, Lucknow, reiterating his grievance regarding his seniority. However, as nothing further transpired, the appellant (Jai Ram) approached this Court by filing Writ Petition No. 29967 (SS) of 2016, which was disposed of by order dated 29.12.2016, directing the Regional Level Committee to decide the matter within a period of two months from the date of production of a certified copy of the order.

**7.** In compliance of the order dated 29.12.2016 passed by the Writ Court in Writ Petition No. 29967 (SS) of 2016, *Jai Ram Vs. State of U.P. and Others*, the Joint

Director of Education, VIth Region, Lucknow, after calling for the service records from the institution and hearing the aggrieved parties, passed order dated 25.03.2017 determining the inter se seniority of the appellant (Jai Ram), Sri Prafulla Kumar Mishra and Sri Gyan Prakash Mishra. Taking into consideration the respective dates of substantive appointment of all three lecturers, the Joint Director held that the appellant (Jai Ram) was senior to Sri Prafulla Kumar Mishra and Sri Gyan Prakash Mishra, as his date of substantive appointment was 01.08.1996, whereas the dates of substantive appointment of Sri Prafulla Kumar Mishra and Sri Gyan Prakash Mishra were 30.12.2000 and 16.12.2001, respectively.

**8.** Feeling aggrieved by the order dated 25.03.2017 passed by the Joint Director of Education, VIth Region, Lucknow, respondent no.1, Sri Prafulla Kumar Mishra filed Writ Petition No. 8702 (SS) of 2017, *Prafulla Kumar Mishra Vs. State of U.P. and Others*, in which the appellant (Jai Ram) was impleaded as respondent No.5. The writ petition was allowed by judgment and order dated 13.08.2021, which is under challenge in the present Special Appeal.

**9.** The learned Single Judge, while passing the judgment and order dated 13.08.2021 in Writ Petition No. 8702 (SS) of 2017, took into consideration the fact that seniority lists had been repeatedly issued since the year 1997, 2005, 2006 and 2012, in which Sri Prafulla Kumar Mishra was consistently shown senior to the appellant (Jai Ram). The learned Single Judge further observed that the appellant (Jai Ram) had never raised any objection to those seniority lists and that it was only in the year 2015

that he raised the issue of seniority before the DIOS, Sitapur. The learned Single Judge held that entertaining such a claim after nearly eighteen years would amount to unsettling a long-standing seniority, which is impermissible in law. Accordingly, relying upon various judgments of the Hon'ble Supreme Court laying down the principle that long-settled seniority should not ordinarily be disturbed after a considerable lapse of time, the learned Single Judge quashed the order dated 25.03.2017 passed by the Joint Director of Education, VIth Region, Lucknow.

**10.** The issue raised by the appellant in the present appeal is that the learned Single Judge, while passing the judgment and order dated 13.08.2021 in Writ Petition No. 8702 (SS) of 2017, *Prafulla Kumar Mishra Vs. State of U.P. and Others*, failed to take into consideration the fact that the alleged seniority lists of the years 1997, 2005, 2006 and 08.11.2012 were not seniority lists prepared and circulated in accordance with Regulation 3 contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921. It is the case of the appellant (Jai Ram) that no such seniority list was ever prepared by the Committee of Management in the first instance nor was the appellant (Jai Ram) ever confronted with any such seniority list so as to enable him to file objections as contemplated under the Regulations. Reference has been made to the seniority lists annexed as Annexure No. 6 to Writ Petition No. 8702 (SS) of 2017, which were available before the learned Single Judge to demonstrate that the alleged seniority lists were not issued by the Committee of Management. Hence,

according to the appellant, the learned Single Judge erroneously based his conclusion on such alleged seniority lists, which could not have been treated as valid seniority lists at all being not prepared and issued under Chapter II, Regulation 3 of the Regulations framed under U.P. Intermediate Education Act, 1921.

**11.** The documents annexed as Annexure No. 6 to Writ Petition No. 8702 (SS) of 2017 contain three documents describing them as seniority lists. The first document is a list dated 02.12.2015 issued by the Principal of the institution describing it as the seniority list of the Lecturer Cadre. The said list was prepared on the basis of the dates of initial appointment of the lecturers, wherein respondent no.1, Sri Prafulla Kumar Mishra was shown senior to the appellant (Jai Ram) because his initial appointment as Lecturer on ad-hoc basis was on 25.07.1991, whereas the date of initial appointment of the appellant (Jai Ram) was 01.08.1996. The second document annexed as Annexure No.6 to the said writ petition is a list relating to the year 2011-12, in which the appellant (Jai Ram) was placed at Serial No.8 and respondent no.1, Sri Prafulla Kumar Mishra was placed at Serial No.5, again based on their dates of initial appointment as Lecturers. The said document further indicates that it was prepared during the period when the institution was under "Single Operation", meaning thereby that due to certain disputes, the institution was being administered under the "Single Operation" and the Committee of Management lacked the authority to administer the affairs of the institution. The third document pertained to the year 2016-17, which was

issued by the Principal of the institution on 07.05.2016 and in the said document, respondent no.1, Sri Prafulla Kumar Mishra was placed at Serial No.3, whereas the appellant (Jai Ram) was placed at Serial No.5, again on the basis of their initial appointments as Lecturers.

**12.** The counter affidavit filed by the Committee of Management in Writ Petition No. 8702 (SS) of 2017 refers to four seniority lists allegedly prepared by the Committee of Management, pertaining to the years 1996-97, 2005, 2011-12 and 2016-17. In all these lists, the appellant (Jai Ram) was shown below respondent no.1, Sri Prafulla Kumar Mishra. The Committee of Management took the stand that the appellant (Jai Ram) had never objected to any of the aforesaid seniority lists and, therefore, after a lapse of nearly eighteen years, he could not challenge the same. However, no such seniority list nor any other document evidencing the preparation or publication of such seniority lists by the Committee of Management were annexed to the counter affidavit so as to establish that these lists had been prepared in exercise of the powers conferred under Regulation 3(1) contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921 in conformity with the procedure prescribed therein.

**13.** The appellant (Jai Ram) also filed a counter affidavit in Writ Petition No. 8702 (SS) of 2017, wherein he specifically pleaded that he had consistently raised his grievance regarding seniority and when no heed was paid to his representations, he was compelled to file Writ Petition No. 29967 (SS) of 2016 and as such, it cannot be said that he did not raise any objection against the

seniority list. A copy of the writ petition bearing Writ Petition No. 29967 (SS) of 2016, *Jai Ram Vs. State of U.P. and Others*, annexed with the supplementary affidavit dated 20.04.2021 filed in the present Special Appeal, clearly demonstrates the manner in which the appellant (Jai Ram) had challenged the determination of his seniority. Taking note of the grievances raised by the appellant therein, the Writ Court disposed of the writ petition by order dated 29.12.2016 directing the Regional Level Committee to decide the issue relating to the seniority of the appellant (Jai Ram) within a period of two months.

**14.** The respondent No. 1, Sri Prafulla Kumar Mishra, while filing objections to the present Special Appeal, raised a preliminary objection regarding its maintainability under Chapter VIII, Rule 5 of the Allahabad High Court Rules. It was contended that the present Special Appeal is not maintainable as it has been preferred against a judgment passed in a writ petition wherein the order dated 25.03.2017 passed by the appellate authority has been quashed. Reliance was placed upon the Full Bench judgment of this Court in *Sheet Gupta v. State of U.P.*, 2009 SCC OnLine All 1613 as well as the judgment of the Hon'ble Supreme Court in *State of U.P. v. Madhav Prasad Sharma*, (2011) 2 SCC 212. The other objection raised by respondent No. 1 is that the seniority lists dated 11.12.2006 and 08.11.2012 were duly countersigned and circulated by the DIOS and that the appellant (Jai Ram) was fully aware of the same, however, despite such knowledge, he never challenged the seniority list dated 11.12.2006 and 08.11.2012. It

has further been alleged that the appellant has misrepresented material facts while filing the present Special Appeal and, on that ground alone, the appeal deserves to be dismissed.

**15.** The document dated 11.12.2006, as relied upon by respondent No. 1 as seniority list annexed as Annexure No. 4 to the supplementary affidavit upon bare perusal, appears to be merely a statement containing the particulars of the Lecturers in seriatim of their initial date of appointment in the institution, forwarded by the Principal of the institution to the DIOS, Sitapur which has been counter signed by him. By no stretch of imagination the said document can be termed as a seniority list in terms of Regulation 3(1) contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921. The another document dated 08.11.2012, referred to by respondent No. 1 as seniority list has not been annexed with the short counter affidavit filed in the present Special Appeal.

**16.** In response to the preliminary objection regarding the maintainability of the present Special Appeal, we take note of the fact that the order dated 25.03.2017, which was challenged in Writ Petition No. 8702 (SS) of 2017, was not an order passed in the exercise of appellate jurisdiction under Regulation 3(1)(f) contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921. An appeal lies only under Regulation 3(1)(f) against a decision taken by the Committee of Management under Regulation 3(1)(e) concerning a dispute relating to seniority. The order dated 25.03.2017 passed by the Joint Director of Education,

Vith Region, Lucknow, was not an order arising out of any decision of the Committee of Management on objection raised before it under Regulation 3(1)(e) contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921. Thus, the preliminary objection raised by respondent No. 1 regarding the maintainability of the present Special Appeal is liable to be rejected, inasmuch as the order dated 25.03.2017 was not passed in the exercise of appellate jurisdiction under Regulation 3(1)(f) arising from a decision of the Committee of Management under Regulation 3(1)(e) contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921.

**17.** Respondent No. 1 also filed another affidavit dated 10.07.2024, described as "Objections/Short Counter Affidavit", in response to the supplementary affidavit dated 13.08.2023. In the said affidavit emphasis has again been laid upon the fact that the learned Single Judge decided Writ Petition No. 8702 (SS) of 2017 on the admitted premise that at least four seniority lists of the Lecturer Cadre had been issued by the authorities on 25.07.1997, 02.12.2005, 11.12.2006, and 08.11.2012, none of which was ever challenged by the appellant (Jai Ram). It has thus been argued that the contrary stand cannot be now allowed to be taken in the present Special Appeal that no seniority list was published. Reliance has also been placed upon the yearly magazine published by the institution, namely "Saurabh", wherein the seniority position of the Lecturers was allegedly published from time to time. Relevant extracts of the magazine have been annexed with the short counter affidavit to contend

that the appellant cannot now assert that no seniority list had ever been published.

**18.** A perusal of the relevant pages of the magazine annexed with the short counter affidavit filed by respondent No.1, reveals that they merely contain a list of teachers and employees working in the institution and such a list by no stretch of imagination can be treated as a seniority list prepared by the Committee of Management in accordance with the provisions contained in Regulation 3(1) of Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921.

**19.** The entire controversy, therefore, centres around the factual issue as to whether any valid seniority list was ever published in the years 1997, 2005, 2006, and 2012 and whether the appellant, despite having knowledge thereof, failed to raise any objection, thereby attracting the principles of acquiescence, waiver or estoppel and precluding him from challenging the inter se seniority of the Lecturers at this belated stage.

**20.** Before arriving at any conclusion regarding the alleged publication of seniority lists during the years 1997, 2005, 2006 and 2012, it is necessary to examine the statutory provisions of Regulation 3 contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921. Regulation 3 is reproduced hereunder :

3. (1) The Committee of Management of every institution shall cause a seniority list of teachers to be prepared in accordance with the following provisions —

(a) *The seniority list shall be prepared separately for each grade of teachers whether permanent or temporary, on any substantive post;*

(b) *Seniority of teachers in a grade shall be determined on the basis of their substantive appointment in that grade.* *If two or more teachers were so appointed on the same date, seniority shall be determined on the basis of age;*

*[(bb) Where two or more teachers working in a grade are promoted to the next higher grade on the same date, their seniority inter se shall be determined on the basis of the length of their service to be reckoned from the date of their substantive appointment in the grade from which they are promoted:*

*Provided that if such length of service is equal, seniority shall be determined on the basis of age.]*

(c) *A teacher in a higher grade shall be deemed to be senior to a teacher in the lower grade irrespective of the length of service;*

(d) *If a teacher who is placed under suspension is reinstated on his original post his original seniority in the grade shall not be affected;*

(e) *Every dispute about the seniority of the teacher shall be referred to the Committee of Management which shall decide the same giving reasons for the decision;*

*[(f) उपखण्ड (ड) के अधीन प्रबन्ध समिति के विनिश्चय से व्यथित कोई अध्यापक ऐसा विनिश्चय ऐसे अध्यापक को*

सूचित किये जाने के दिनांक से 15 दिन के भीतर सम्बन्धित क्षेत्रीय उप-शिक्षा निदेशक को अपील कर सकता है, और अपील पर सम्बन्धित पक्षों को सुनवाई का अवसर देने के उपरान्त उप शिक्षा निदेशक अपना निर्णय कारण सहित देगा, जो अन्तिम होगा और प्रबन्ध समिति द्वारा कार्यान्वित किया जायेगा।]

(g) यदि एक ग्रेड में कार्यरत दो या अधिक अध्यापक किसी एक ही तिथि पर पदोन्नति किए जाएँ तो उनकी ज्येष्ठता का आधार उस ग्रेड का सेवाकाल होगा, जिसमें वे कार्यरत थे, परन्तु यदि सेवाकाल बराबर है, तो पदोन्नति की दशा में आयु के आधार पर ज्येष्ठता निर्धारित की जायेगी।]

(2) The seniority list shall be revised every year and the provisions of Clause (1) shall mutatis mutandis apply to such revision.

*(Emphasis supplied)*

**21.** A bare perusal of Clause (1) of Regulation 3 reveals that the Committee of Management of the institution is the competent authority for issuance of the seniority list after taking into consideration the provisions contained in sub-clauses (a) to (g) of Clause (1) of Regulation 3. Clause (2) of Regulation 3 mandates that the seniority list shall be revised every year and, during such revision, the provisions of Clause (1) shall be applied as such.

**22.** When we analyse the alleged seniority lists annexed with memo of Writ Petition No. 8702 (SS) of 2017, we find that Sri Prafulla Kumar Mishra, while filing Writ Petition No. 8702 (SS) of 2017, collectively annexed the seniority lists as Annexure No. 6 to the writ petition. The first document is an alleged seniority list of Lecturers dated 02.12.2005, which has been issued by the Principal

of the institution. The second document is an alleged seniority list pertaining to the year 2011-12, which indicates that the institution, at that point of time, was under "Single Operation" and the third document is a list of teachers working in the Lecturer cadre with reference to their initial dates of appointment for the year 2016-17, which was issued on 07.05.2016 by the Principal of the institution. We are of the view that the documents annexed as Annexure No. 6 to the writ petition, as available on the record of the present Special Appeal, cannot be termed as seniority lists in terms of Regulation 3(1) contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921 for the reason that those documents were not issued by Committee of Management of Institution. As such, the reliance placed by the learned Single Judge on such documents to conclude that the seniority lists were published by the institution and the appellant (Jai Ram) did not raise any objection to such seniority lists is completely misconceived as objections can be raised in reference to Regulation 3(1)(e) if the seniority lists would have been issued by the Committee of Management as required under Regulation 3(1).

**23.** Apart from the aforesaid documents annexed as Annexure No. 6 to Writ Petition No. 8702 (SS) of 2017 filed by respondent No.1, we do not find any other document which was available on record before the learned Single Judge to reach the conclusion that the appellant (Jai Ram) did not raise any objection to the seniority lists and, as such, he could not belatedly raise such objections.

**24.** On a close scrutiny of the documents annexed as Annexure No. 6 to Writ Petition No. 8702 (SS) of 2017, we can only say that to some extent, the seniority list of Lecturers for the year 2011-12, when the institution was under "Single Operation", may be said to be a seniority list issued under Regulation 3(1) of the Regulations as during such period Committee of Management was in dispute. Be that as it may, even the seniority list of the year 2011-12 of the Lecturer cadre is based on the initial appointment of the incumbent Lecturer and, as such, the seniority reflected therein is also not in conformity with Regulation 3(1)(b) contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921 which provides that the seniority of teachers in a grade shall be determined on the basis of their substantive appointment in that grade. It is not in dispute that the date of substantive appointment of the appellant on the post of Lecturer (English) is 01.08.1996 and that of Prafulla Kumar Mishra is 30.12.2000.

**25.** Apart from the aforesaid documents annexed as Annexure No. 6 to Writ Petition No. 8702 (SS) of 2017, respondent No.1 has placed another document dated 11.12.2012 along with the preliminary objections to the short counter affidavit filed by him in the present Special Appeal on 26.08.2021, which is nothing but the details of teachers working in the institution in the Lecturer grade, issued by the Principal of the institution. The said document also cannot be termed as a seniority list in terms of Regulation 3 contained in Chapter II of the Regulations framed under the U.P. Intermediate Education

Act, 1921 not being issued by Committee of Management.

**26.** At this juncture, it would be worth mentioning the provisions contained in Chapter I of the Regulations framed under the U.P. Intermediate Education Act, 1921, which provide for the Scheme of Administration. Regulation 1 provides that the Committee of Management of an institution shall include ex-officio members, i.e. the Headmaster/Principal and two teachers, for a term of one year each by rotation according to seniority selected in the manner prescribed in Regulation 2 contained in Chapter I of the Regulations framed under the U.P. Intermediate Education Act, 1921. Regulation 2 provides that the Committee of Management shall maintain a seniority list of all the substantively appointed teachers, which shall be based on the date of their appointment in the institution. Regulation 3 further provides that the two senior-most teachers shall, in the first instance, be selected from the said list as ex-officio members of the Committee of Management. Regulation 4 contained in Chapter I of the Regulations framed under the U.P. Intermediate Education Act, 1921 provides that the Manager shall prepare and maintain the seniority list showing therein the date from which a teacher is entitled to count his seniority and before finalizing the list, he shall supply a copy thereof to every teacher in the institution. Any objection filed by a teacher within one month from the date of receipt of the copy by him shall be decided by the Committee of Management. Regulation 5 further provides that any teacher aggrieved by the decision of the Committee of Management may file an

appeal before the DIOS within fifteen days from the communication of the said decision and thereafter a copy of the list, after its finalization, shall be supplied to each teacher. Regulations 1 to 6 contained in Chapter I of the Regulations framed under the U.P. Intermediate Education Act, 1921 are reproduced hereinbelow :-

*1. Ex-officio members of the Committee of Management. The Committee of Management of an institution shall include the following ex-officio members:*

*(i) Headmaster or Principal, as the case may be,*

*(ii) Two teachers for a term of one year each by rotation according to seniority selected in the manner prescribed below.*

*2. "ज्येष्ठता के आधार पर बारी-बारी से चयन किये जाने के लिये प्रबन्ध द्वारा संस्था के समस्त मौलिक सेवा वाले अध्यापकों की एक ज्येष्ठता सूची रखी जायेगी। यह सूची उस संस्था में उनकी स्थायी नियुक्ति की तिथि तथा इस प्रकार दो अथवा उससे अधिक अध्यापकों की नियुक्ति की दशा में उनकी ज्येष्ठता उनकी आयु की ज्येष्ठता पर निर्धारित की जायेगी।"*

*3. The two senior most teachers shall be selected from this list as ex officio members of the Committee of Management in the first instance. Their terms shall begin from the date on which the Committee of Management is constituted after the approval of the Scheme of Administration by the Director. On the expiry of their terms or in the event of vacancy or vacancies occurring earlier by one or both, the teachers resigning his/their membership/ memberships of the Committee or ceasing to be in the service of the institution, the teacher/ teachers next in the seniority list shall be selected in his/their place/ places for*

*a full term. The ex-officio membership of a teacher shall not lapse on his being promoted or demoted from one grade or category to another during the currency of his term.*

*4. The manager shall prepare and maintain the seniority list showing therein the date from which a teacher is entitled to count his seniority. Before finalizing the list, he shall supply a copy thereof to every teacher in the institution and any objection filed by a teacher within a month of the receipt of the copy by him shall be decided by the Committee of Management.*

*5. Any teacher aggrieved by the decision of the Committee may within fifteen days of its communication to him file an appeal to the Inspector or Regional Inspectress, as the case may be, whose decision thereon shall be final.*

*6. A copy of the list after it has been finalized shall be supplied to each teacher, the head of the institution and the Inspector or Regional Inspectress for the reference and record. Any change in the strength or grades to teachers comprising a category shall be duly noted in the list and all concerned promptly intimated of it. Any teacher who feels aggrieved by the change may file objection before the Managing Committee within a month of the intimation and that objection shall be dealt with as if it were an objection under Regulation 4.*

**27.** Regulation 2 contained in Chapter I of the Regulations framed under the U.P. Intermediate Education Act, 1921 provides for maintaining the seniority list on the basis of the date of initial appointment in the

institution, whereas Regulation 3(1)(b) contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921 provides for the seniority of teachers to be determined on the basis of their substantive appointment. The seniority referred to in Regulation 3 contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921 relates to the seniority list prepared for the purpose of service benefits in reference to service conditions, i.e., promotion, etc.; whereas the seniority referred to in Regulation 2 contained in Chapter I of the Regulations framed under the U.P. Intermediate Education Act, 1921 is for the purpose of selection of ex-officio members on rotational basis for including them in the Committee of Management. Thus, the alleged seniority lists referred by respondent no.1 and the Committee of Management before the Writ Court as well as in the present appeal, can be referred to Regulation 2 contained in Chapter I of the Regulations framed under the U.P. Intermediate Education Act, 1921, as those lists pertain to seniority based on the date of initial appointment of teachers for the purpose of inclusion of ex-officio members on rotational basis in the Committee of Management and have no relevance in the controversy involved in the present litigation. The issue before this Court is with regard to seniority for the purpose of service benefits pertaining to service conditions, which has to be determined in the manner prescribed under Regulation 3 contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921 and for that

purpose seniority list has to be prepared and issued by Committee of Management.

**28.** To qualify as a seniority list under Regulation 3(1) contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921, it has to be prepared in accordance with the provisions contained in Regulation 3 and any list containing merely the details of teachers working in the institution, issued by the Principal of the institution or any authority other than Committee of Management, cannot be termed as a seniority list. Before the Writ Court as well as in the present appeal, the Committee of Management failed to establish that any seniority list was ever prepared on the basis of the substantive appointment of the teachers in the manner prescribed under Regulation 3 contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921. In the counter affidavit filed before the Writ Court, there is no whisper by the Committee of Management as to whether any seniority list was finalized under Regulation 3 contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921 after invitation and consideration of objections by the teaching staff of the institution. Although it appears that there is no specific provision for inviting objections prior to the finalization of the seniority list under Regulation 3 contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921, nevertheless, the finalized seniority list is required to be circulated in terms of Regulation 3(1)(f) and (g) contained in Chapter II of the said Regulations. In case the seniority list is not circulated, the provisions

contained in Regulation 3(1)(f) and (g) of Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921 would be rendered otiose as without any knowledge of the final seniority list, an aggrieved person can neither file objection as contemplated under Regulation 3(1)(e) nor appeal under Regulation 3(1)(f).

**29.** Upon examining the documents annexed to Writ Petition No. 8702 (SS) of 2017 as well as the other documents brought on record in the present Special Appeal, we are of the view that in fact, no seniority list, as required under Regulation 3 contained in Chapter II of the Regulations was ever issued so as to reach to the conclusion that the appellant failed to file any objection to the seniority list published by the institution and thereby acquiesced in and waived his right to challenge such seniority.

**30.** The publication of the magazine of the institution every year containing details of the teachers do not come within the ambit of a seniority list, as such details are merely in the nature of information regarding the teachers working in the institution since their initial appointments and at the most is referable to maintaining seniority in terms of Chapter I for the purpose of representation in Committee of Management as ex-officio members on rotational basis. The determination of inter se seniority is based on various factors enumerated in Regulation 3(1) contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921 and not depends merely on the initial date of appointment. Rather, it is the date of substantive appointment, as referred to in sub-clause (b) of Clause

(1) of Regulation 3, which is the relevant factor for determination of seniority for the purpose of promotion and other benefits.

**31.** There is no dispute with regard to the judgments referred to in the impugned judgment and order dated 13.08.2021 passed by the learned Single Judge in Writ Petition No.8702 (SS) of 2017, as it is trite that long-settled seniority cannot be disturbed. However, on examining the facts relating to the present controversy, we are of the view that the learned Single Judge based his conclusion by treating the documents annexed as Annexure No. 6 to Writ Petition No. 8702 (SS) of 2017 as seniority lists, though they were not seniority lists published by the Committee of Management under Regulation 3(1) contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921. Hence, it cannot be said that the appellant (Jai Ram) failed to raise objections at the relevant point of time with regard to his seniority. The objection can only be raised to a duly published seniority list issued in accordance with the statutory provisions. Any list published by an authority not competent to issue a seniority list cannot be termed as a seniority list so as to require any objection thereto as contemplated under Regulation 3.

**32.** At the best, it can be the case of the respondent no. 1 that the seniority list for the year 2011-12, issued when the institution was under "Single Operation", is referable to Regulation 3 contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921. Even if it is assumed that the appellant (Jai Ram) did not file any objection to

such seniority list published in the year 2011-12, we find that the appellant raised his objection before the DIOS, Sitapur, on 24.12.2014 with regard to his seniority. Hence, it cannot be said that there was any considerable delay in raising objections to the seniority list published in the year 2011-12.

**33.** Moreover, we also find that the appellant (Jai Ram) is admittedly senior to respondent No.1, Prafulla Kumar Mishra as it is not in dispute that the date of substantive appointment of the appellant is 01.08.1996 and that of Prafulla Kumar Mishra is 30.12.2000. Regulation 3(1)(b) contained in Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921 specifically provides that seniority is to be reckoned from the date of substantive appointment. We are also of the view that no vested right accrued in favour of respondent No.1, as he was neither promoted nor assigned to officiate on the basis of the alleged seniority lists on a higher post over and above the appellant prior to the appellant raising his objection by means of his representation dated 24.12.2014 before the DIOS, Sitapur. In fact, it was the appellant who was given the charge of Officiating Principal of the institution in terms of the order dated 25.03.2017 passed by the Joint Director of Education, VIth Region, Lucknow, whereby the appellant was held to be senior to Sri Prafulla Kumar Mishra. However, subsequently, he was divested of the charge of Officiating Principal by the judgment and order dated 13.08.2021 passed in Writ Petition No. 8702 (SS) of 2017, whereby the order dated 25.03.2017 passed by the Joint Director of Education, VIth Region, Lucknow,

was set aside. Thus, it was only as a consequence of the judgment and order dated 13.08.2021 passed in Writ Petition No. 8702 (SS) of 2017 that the appellant was divested of the post of Officiating Principal of the institution. It is, therefore, not a case where respondent No.1 can contend that by the order dated 25.03.2017, he was divested of any accrued or vested right.

**34.** In view of the aforesaid discussion, we are of the view that the present appeal deserves to be allowed and is hereby **allowed**. Accordingly, we set aside the judgment and order dated 13.08.2021 passed in Writ Petition No. 8702 (SS) of 2017 and uphold the order dated 25.03.2017 passed by the Joint Director of Education, VIth Region, Lucknow. We further direct that the appellant (Jai Ram) shall be given all consequential benefits being senior to respondent No.1 within a period of fifteen days from the date of production of a certified copy of this order before the Joint Director of Education, VIth Region, Lucknow.

**(Amitabh Kumar Rai,J.) (Alok Mathur,J.)**

**July 24, 2026**

Ashish Dewal