



2026:AHC:71369

Reserved on:- 16.01.2026

Delivered on:- 03.04.2026

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 10958 of 2018

C/M St. Johns Girls Junior High School

.....Petitioner(s)

Versus

State of U.P. and another

.....Respondent(s)

Counsel for Petitioner(s)	: A.d. Saunders
Counsel for Respondent(s)	: Ashish Kumar (nagvanshi), Ajay Kumar Mishra, C.S.C.

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. Heard Mr. A. D. Saunders, learned counsel for the petitioner, Mr. Ashish Kumar (Nagvanshi), learned Additional Chief Standing Counsel and Mr. Shailendra Singh, learned Standing Counsel for the State-respondents as well as perused the records.

2. This writ petition has been filed challenging the order dated 28.09.2017 passed by the District Basic Shiksha Adhikari, Gorakhpur, disapproving the appointment on the post of Clerk and a further prayer to direct the District Basic Shiksha Adhikari to pass necessary orders for the payment of salary to the selected candidate.

3. Placing the brief facts of the case, learned counsel for the petitioner submits that the petitioner is the Committee of Management of St. John's Girls Junior High School, which is a recognized, aided, and minority institution (hereinafter referred to as 'the institution'). Several vacancies, including one for the post of Clerk, existed in the said institution. The selection for the post of Clerk in the institution is governed by the Uttar

Pradesh Recognized Basic Schools (Junior High Schools) (Recruitment and Conditions of Service of Ministerial Staff and Group D Employees) Rules, 1984 (hereinafter referred to as 'the Rules of 1984').

4. In order to advertise the vacant posts, including that of Clerk, the Manager of the institution sought permission from the District Basic Shiksha Adhikari for advertising the posts. The District Basic Shiksha Adhikari, Gorakhpur, by letter dated 23.06.2016, granted permission to advertise all the posts, including the post of Clerk. Pursuant to this, the Manager of the institution advertised the posts, including the post of Clerk, in two newspapers: Swatantra Jantmitra and Swatantra Bharat, dated 26.07.2016.

5. Pursuant to the aforesaid advertisement, a large number of applications were received and accordingly, interview letters dated 09.05.2017 were issued to all eligible candidates, fixing 25.05.2017 as the date for the interview before the selection committee.

6. As per Rule 14 of the Rules of 1984, the selection committee was required to be constituted in such a manner that one member would be nominated by the District Basic Shiksha Adhikari, Gorakhpur. Accordingly, by letter dated 09.05.2017, the Manager requested the District Basic Shiksha Adhikari, Gorakhpur, to nominate one representative for constituting the selection committee, which was scheduled on 25.05.2017. In response, the District Basic Shiksha Adhikari nominated and sent Shri Jitendra Kumar Pandey, Principal of Rajkiya High School Barigaon, Belghat, Gorakhpur, as the expert for the selection committee.

7. On 25.05.2017, the selection committee convened and selected Vikas Alexander for the post of Clerk. The Manager of the institution submitted all the relevant documents related to the selection process to the office of the Basic Shiksha Adhikari, Gorakhpur, on 04.09.2017, and these documents were received in his office on the same day, i.e., 04.09.2017.

8. After receiving all the documents along with the covering letter dated 04.09.2017, the Basic Shiksha Adhikari marked the letter to Shri Dinesh of his office on 06.09.2017. In the letter dated 04.09.2017, the Manager also informed about the floods in Gorakhpur, explaining that the documents could not be filed within the prescribed time due to delays caused by the situation of floods.

9. On 07.10.2017, the institution received a registered post containing a copy of the order dated 28.09.2017, passed by the Basic Shiksha Adhikari, disapproving the selection of Vikas Alexander as Clerk. According to the envelope, the said letter was posted on 05.10.2017 at 06:37 p.m. and received by the institution on 07.10.2017. Accordingly, the petitioner has challenged the aforesaid order.

10. Learned counsel for the petitioner submits that there was a delay in submitting the papers of Vikas Alexander in the office of the Basic Shiksha Adhikari, which has been explained in the covering letter dated 04.09.2017. The delay was caused by the floods in Gorakhpur, which prevented the timely filing of the papers related to the selection process.

11. Learned counsel for the petitioner further submits that the institution received the impugned order dated 28.09.2017, which disapproved the selection of Vikas Alexander as Clerk in the institution. The order also mentioned that the papers be returned and issued a direction to initiate fresh proceedings for selection, after obtaining approval for publishing notices declaring the vacancies for the post of Clerk.

12. The Manager, by her letter dated 26.10.2017 addressed to the Basic Shiksha Adhikari, Gorakhpur, claimed that there was deemed approval, as no order from the Basic Shiksha Adhikari had been received within the prescribed period of thirty days, as stipulated under Rule 15(5)(iii) of the Rules of 1984. In response to the aforesaid letter, the Basic Shiksha Adhikari informed the Manager of the institution that, as per the order dated 28.09.2017, the papers related to the selection process had been returned with directions to initiate fresh selection proceedings.

13. The Manager of the institution again by letter dated 06.11.2017, reiterated the claim of deemed approval; however, in response, the Basic Shiksha Adhikari issued a letter dated 10.11.2017, reiterating his stand and relying upon the impugned order dated 28.09.2017.

14. Learned counsel for the petitioner has challenged the impugned order dated 28.09.2017 on the ground that as per the Recruitment and Conditions of Service of Ministerial Staff and Group-D employees of Recognized Basic Schools, governed by Rule 1984, the District Basic Education Officer is required to communicate the decision within one month of receiving the relevant papers, failing which there shall be deemed approval, accordingly, the impugned order is illegal.

15. He further submits that the papers relating to the selection proceedings for the post of Clerk were submitted to the office of the Basic Shiksha Adhikari on 04.09.2017, and prior to 07.10.2017, no information was received regarding the order dated 28.09.2017 disapproving the appointment of Vikas Alexander to the post of Clerk.

16. He further submits that though the impugned order is stated to have been passed on 28.09.2017 and posted on 05.10.2017, i.e., after a delay of one week, there is no explanation as to why the Basic Shiksha Adhikari withheld the impugned order if it had indeed been passed on 28.09.2017.

17. The aforesaid impugned order was posted by the Basic Shiksha Adhikari on 05.10.2017 at 06:37 p.m., seemingly hurriedly, in an attempt to defeat the provisions of Rule 15(5)(iii) of the Rules of 1984, which stipulates deemed approval.

18. The envelope containing the impugned order dated 28.09.2017 was received by the institution on 07.10.2017. Since the papers were submitted on 04.09.2017 and the thirty-day period expired on 03.10.2017, learned counsel for the petitioner submits that under Rule 15(5)(iii) of the 1984 Rules, deemed approval took effect on

04.10.2017. Consequently, the impugned order became non-est and infructuous, as no further action could be taken after the deemed approval.

19. It is further submitted that the passing of the order dated 28.09.2017 by the Basic Shiksha Adhikari is irrelevant, as it requires further steps to communicate the order within 30 days. While the impugned order may have been passed on 28.09.2017 within the thirty-day period, it was communicated after the expiration of that period, thereby triggering the provision of deemed approval.

20. He further submits that in respect of teachers, there exists a rule known as *The U.P. Recognized Basic School (Junior High School) (Recruitment and Conditions of Service of Teachers) Rules, 1978* (hereinafter referred to as the 'Rules of 1978'). These rules also provide for deemed approval. Rule 10(5)(iii) of the Rules of 1978 is analogous to Rule 15(5)(iii) of the 1984 Rules. Rule 10(5)(iii) is quoted herein for ready reference:-

"If the District Basic Education Officer does not communicate his decision within one month from the date of receipt of papers under clause (iv), he shall be deemed to have accord approval to be recommendation made by the Selection Committee."

21. Learned counsel for the petitioner has relied upon the judgment of this Court, in the case of **Sant Ram v. State of U.P. and others**¹, wherein the Co-ordinate Bench of this Court considered the provisions of Rule 10(5)(iii) of the 1978 Rules and held that if the order is not communicated within thirty days from the receipt of the papers regarding the selection process, it would result in deemed approval.

22. He has also relied upon the case of **Sanjay Kumar Singh Vs. State of U.P. and others**², wherein the same proposition of law has been held.

23. Thus, the petitioner submits that, in view of the deemed approval, the impugned order is ante-dated, becomes non-est. The petitioner has

1 2021 Vol. ADJ 212 (LB)

2 2019 (Vol.5), ADJ 583 (LB)

specifically stated in paragraph 13 of the writ petition that the impugned order is ante-dated. This fact has not been denied in the counter-affidavit filed by the State. The reply to paragraph 13 of the writ petition is provided in paragraph 12 of the counter-affidavit. Consequently, the petitioner is entitled to receive salary, as his appointment has been ratified by deemed approval.

24. The Selection Committee is constituted under Rule 14 of the 1984 Rules. The Manager of the institution requested the Basic Shiksha Adhikari to send a nominee to be a member of the Selection Committee. On 25.05.2017, one Sri Jitendra Kumar Pandey appeared as the nominee of the Basic Shiksha Adhikari, and the Principal and Manager of the institution assumed that Sri Jitendra Kumar Pandey, Principal of Rajkiya High School Barigaon, Belghat, Gorakhpur, was the nominee of the Basic Shiksha Adhikari. Sri Jitendra Kumar Pandey participated in the selection process, and the selection of Vikas Alexander on the post of Clerk was unanimously accepted, with the papers subsequently forwarded. However, the impugned order dated 28.09.2017 states that no record exists in the office of the Basic Shiksha Adhikari nominating Sri Jitendra Kumar Pandey as its nominee. In other words, the Basic Shiksha Adhikari did not officially appoint a nominee to the Selection Committee, thereby rendering the selection process invalid and contrary to law.

25. However, even assuming, without conceding, that the Basic Shiksha Adhikari did not send a nominee to the Selection Committee, such an omission does not vitiate the selection process. This contention is supported by the judgment in **Dhirendra Pratap Singh v. State of U.P. and others**³, where this Court held that the absence of a nominee from the District Basic Education Officer does not invalidate the selection process. The Committee of Management can proceed with the selection, and the District Basic Education Officer is required to formally approve the appointment of the selected candidate after one month from the

3 2019 (7) ADJ 250 (LB)

receipt of the papers for approval. This judgment is fully applicable to the facts and circumstances of the present case.

26. Even if it is presumed that Sri Jitendra Kumar Pandey participated as a nominee of the Basic Shiksha Adhikari, the selection process was unanimously decided by the Principal and the Manager, who were members of the Selection Committee. Even if the participation of Sri Jitendra Kumar Pandey is disregarded, it would not vitiate the selection process, regardless of whether he was a nominee of the Basic Shiksha Adhikari or not.

27. As demonstrated above, the papers related to the selection process were submitted on 04.09.2017. The Basic Shiksha Adhikari, in his internal administrative capacity, marked the case to Sri Dinesh on 06.09.2017. However, it is irrelevant when the Basic Shiksha Adhikari took steps in his administrative capacity, as the papers were received in the office of the Basic Shiksha Adhikari, not personally by him. Even assuming, without conceding, that the papers were received by the Basic Shiksha Adhikari on 06.09.2017, the thirty day period expired on 05.10.2017. It is evident that the Basic Shiksha Adhikari hurriedly posted the impugned order on 05.10.2017 at 6:37 P.M. Even if this is accepted, the thirty-day period had already expired on 05.10.2017, and the order was communicated on 07.10.2017, i.e., after the thirty-day period, thereby making the selection of Vikas Alexander perfected by deemed approval prior to the communication of the order.

28. The impugned order further mentions a delay in submitting the papers related to the selection process, which had already been explained in the letter dated 04.09.2017, citing the floods in Gorakhpur as the cause of the delay. However, the Basic Shiksha Adhikari has not addressed this explanation and has instead made a mere bald assertion that there was a delay in receiving the papers.

29. On the other hand, learned counsel for the respondents submits that the Manager of the institution submitted an application dated 08.04.2016

before the District Basic Education Officer (Respondent No. 2) seeking permission to fill up the post of Clerk. The said permission was eventually accorded by Respondent No. 2 vide order dated 23.06.2018.

30. In the interregnum, the post of Clerk (Class III) was advertised in two widely circulated newspapers on 26.07.2016. Subsequently, the Manager addressed a communication dated 09.05.2017 to the District Basic Education Officer requesting nomination of an authorized representative to participate in the selection process, as mandated under law. The interviews were conducted on 25.05.2017, and the selection proceedings were thereafter placed before the Committee of Management. The Committee forwarded the entire record to the District Basic Education Officer for approval on 04.09.2017, which was duly received in the office of Respondent No. 2 on 06.09.2017.

31. Upon due consideration, the District Basic Education Officer, by a reasoned order dated 28.09.2017, declined to accord approval to the appointment of one Vikas Alexander, *inter alia*, on the ground that the selection had been conducted by an unlawfully constituted Selection Committee, in flagrant violation of Rules 14, 15, and 16 of the U.P. Recognized Basic Schools (Junior High School) Recruitment and Conditions of Service of Ministerial Staff and Group 'D' Employees Rules, 1984.

32. The said order dated 28.09.2017 is legally sound, well-reasoned, and in strict conformity with the applicable statutory provisions, warranting no interference.

33. Learned counsel for the respondents has also raised a preliminary objection with regard to the maintainability of the present petition, contending that the same has been instituted at the behest of a member of the Committee of Management and is, therefore, not maintainable in law. On this ground alone, the writ petition is liable to be dismissed.

34. He further submits that the Committee of Management lacks locus standi to institute the present writ petition, inasmuch as the challenge is directed against the order rejecting approval of the appointment of one Vikas Alexander, who has not been impleaded as a petitioner in the present proceedings. Consequently, the Committee of Management cannot be said to be an aggrieved party competent to invoke the writ jurisdiction of this Hon'ble Court.

35. Learned counsel for the respondents has further raised an objection that the advertisement pertaining to the selection was not published in two widely circulated newspapers, as mandated. Consequently, the same is in clear violation of Rule 13(1) of the Rules, 1984.

36. Learned counsel for the respondents has further raised an objection regarding the improper constitution of the Selection Committee. It is contended that, under the relevant provisions of the Rules, 1984, one member of the Selection Committee is required to be nominated by the District Basic Education Officer. However, in the present case, the third member was not nominated by the District Basic Education Officer but was instead chosen by the Selection Committee itself, which is clearly impermissible in law.

37. It has also been submitted that the Principal of Government High School, Barigaon, Bela Ghat, Gorakhpur, is neither under the administrative control nor the supervisory jurisdiction of the District Basic Education Officer, Gorakhpur. Consequently, such person could not have been validly nominated by the District Basic Education Officer to act as a member of the Selection Committee for the purposes of the selection in question.

38. It is also an undisputed fact that the Selection Committee selected Vikas Alexander for the post of Clerk in its proceedings dated 25.05.2017; however, the relevant papers were forwarded only on 04.09.2017, after an inordinate delay of three months and ten days, which is in clear contravention of Rule 15(4) of the Rules, 1984.

39. Accordingly, the impugned order dated 28.11.2019 has been passed strictly in accordance with the provisions of the Rules, 1984, particularly Rule 15(5)(iii) thereof.

40. Thus, the entire selection process conducted by the Selection Committee and the Committee of Management stands vitiated, having been undertaken in flagrant violation of Rules 14, 15, 16, as well as Rule 13(1) of the Rules, 1984. Consequently, the present writ petition is devoid of merit and is liable to be dismissed.

41. The Court called upon the parties and perused the records. The impugned order has been passed primarily on the grounds that the advertisement was not published in widely circulated newspapers; that no nominee was deputed by the District Basic Education Officer to constitute the Selection Committee for the post in question; and further, that the proposal for approval was forwarded after an inordinate delay.

42. In order to effectively adjudicate upon the controversy involved in the present case, it would be apposite to advert to the relevant statutory provisions governing the field, namely, the provisions contained under the Uttar Pradesh Recognized Basic Schools (Junior High School) (Recruitment and Conditions of Service of Ministerial Staff and Group 'D' Employees) Rules, 1984, which are extracted hereinbelow:-

“13. Advertisement of vacancy. -

(1) No vacancy shall be filled, except after its advertisement in at least one newspaper having adequate circulation in the locality and the intimation of such vacancy to the District Basic Education Officer.

14. Selection Committee. - The Management shall constitute a selection committee consisting of :-

(1) Manager.

(2) Headmaster of the recognised school in which the appointment is to be made.

(3) A specialist nominated by the District Basic Education Officer who will be from amongst minority in respect of a school established and administered by a minority or from amongst Scheduled Castes in respect of any other school.

15. Procedure for selection. -

(5) (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.”

43. The undisputed facts of the present case are that several vacancies existed in the institution, including one post of Clerk. In this regard, prior permission was duly sought from the Basic Shiksha Adhikari for initiating the process of recruitment by way of advertisement.

44. Pursuant to the permission so granted, the vacancies, including the post of Clerk, were duly advertised in two widely circulated newspapers, namely, Swatantra Janmitra and Swatantra Bharat, both dated 26.07.2016. Thereafter, 25.05.2017 was fixed as the date for conducting interviews before the duly constituted Selection Committee.

45. Thereafter, the Manager of the institution, vide communication dated 09.05.2017 addressed to the Basic Shiksha Adhikari, requested for deputation of his nominee to serve as a member of the Selection Committee to be constituted under Rule 14 of the Rules, 1984. Pursuant thereto, one Shri Jitendra Kumar Pandey, Principal, Rajkiya High School, Barigaon Bela Ghat, Gorakhpur, participated in the selection proceedings, claiming to be the nominee of the Basic Shiksha Adhikari.

46. Subsequently, one Shri Vikas Alexander came to be unanimously selected for appointment on the post of Clerk on 25.05.2017. Thereafter, on 04.09.2017, the Manager of the institution forwarded the entire record pertaining to the selection process to the office of the Basic Shiksha Adhikari under a covering letter, which was received in the said office on the same day.

47. The Basic Shiksha Adhikari, on 06.09.2017, marked the file to one Dinesh through internal administrative arrangement for necessary examination. The delay in submission of the papers was sought to be

explained on account of the flood situation prevailing in Gorakhpur at the relevant time.

48. Thereafter, the impugned order dated 28.09.2017 came to be passed by the Basic Shiksha Adhikari, whereby the selection of Shri Vikas Alexander to the post of Clerk in the institution was disapproved. The said order further directed that the entire record relating to the selection process be returned, with a direction to initiate fresh selection proceedings after obtaining prior approval for issuance of advertisement notifying the vacancy of Clerk.

49. At the outset, it is not in dispute that the Manager of the institution had duly requested the Basic Shiksha Adhikari to nominate his representative for inclusion in the Selection Committee, as mandated under Rule 14 of the Rules, 1984. In pursuance thereof, Shri Jitendra Kumar Pandey, Principal, Rajkiya High School, Barigaon Bela Ghat, Gorakhpur, in fact participated in the selection proceedings and duly appended his signatures on the proceedings of the Selection Committee.

50. Once a nominee, representing the office of the Basic Shiksha Adhikari, has in fact participated in the selection process without any demur, the objection that his name was not specifically mentioned in the communication, or that he was not formally authorized, is a hyper-technical plea which cannot be permitted to vitiate an otherwise valid selection.

51. It is a settled principle of law that acts done in substance in compliance with statutory requirements ought not to be invalidated on mere technical or procedural irregularities, particularly when no prejudice is shown to have been caused. The participation of the said nominee lends due legitimacy and transparency to the selection process, fulfilling the very object for which such nomination is contemplated under the Rules.

52. Furthermore, even assuming, without admitting, that there was any irregularity in the manner of nomination, the same would, at best, constitute an irregularity and not an illegality, especially when the authority itself permitted such participation and never objected to it at the relevant point of time. The respondents cannot be allowed to approbate and reprobate by accepting the participation of the nominee during the selection process and subsequently questioning the same to defeat the selection.

53. It is equally well settled that the candidate cannot be made to suffer for any alleged procedural lapse on the part of the authorities, particularly when the selection has otherwise been conducted fairly and in accordance with the prescribed procedure.

54. Thus, in the absence of any allegation of *mala fide*, bias, or prejudice, and there being substantial compliance with the requirement of inclusion of the nominee, the disapproval of selection on this ground alone is arbitrary, unsustainable, and liable to be set aside.

55. The first ground taken in the impugned order for disapproving the appointment of the said Clerk is that no specific nominee was indicated in the communication issued from the office of the Basic Shiksha Adhikari. However, it is an admitted position that Shri Jitendra Kumar Pandey, Principal, Rajkiya High School, Barigaon, Belaghat, Gorakhpur, participated in the selection proceedings and duly signed the proceedings of the Selection Committee.

56. In view of the above discussion, the further objection that the District Basic Education Officer was not empowered to nominate Principal of Rajkiya High School, and that there existed no justification or occasion for such nomination has no legs to stand.

57. The second ground taken in the impugned order is that, although the selection to the post of Clerk was finalized on 25.05.2017, the provisions contained in Rule 15(3) and 15(4) of the Rules, 1984 mandate that the

entire record of the selection proceedings be forwarded to the office of the Basic Shiksha Adhikari within a period of one week. However, in the present case, the said papers were transmitted only on 04.09.2017, after a considerable delay.

58. The delay, though apparent on the face of record, is neither deliberate nor fatal to the selection process. It stands duly explained on account of extraordinary and unavoidable circumstances, namely the severe flood situation prevailing in Gorakhpur during the relevant period, which disrupted normal administrative functioning. Such circumstances constitute a valid and sufficient cause, beyond the control of the institution.

59. It is well settled that procedural provisions relating to timelines are ordinarily directory in nature, unless the statute expressly provides consequences of non-compliance. Rule 15(3) and (4) of the Rules, 1984, though prescribing a time frame, do not stipulate that delay in submission of papers would automatically vitiate the entire selection process. Therefore, the said provision cannot be construed as mandatory so as to nullify an otherwise valid selection.

60. Further, no prejudice has been shown to have been caused to any party on account of the said delay. The selection process had already been duly completed in a fair and transparent manner, and the delay in forwarding papers is a post-selection procedural lapse, which does not go to the root of the selection.

61. It is equally trite that substantial justice ought not to be defeated on account of technicalities, particularly when the delay stands reasonably explained. The authorities, instead of adopting a hyper-technical approach, ought to have considered the explanation in its proper perspective.

62. Thus, the delay in forwarding the papers, being satisfactorily explained and not affecting the merits of the selection, could not have been made a ground to disapprove the appointment.

63. It is an admitted position on record that the papers relating to the selection process were submitted in the office of the Basic Shiksha Adhikari, Gorakhpur, on 04.09.2017, and the same were internally marked to Shri Dinesh on 06.09.2017 for necessary consideration. Thus, the receipt of the selection papers in the office of the Basic Shiksha Adhikari stands duly established.

64. Even if, for the sake of argument, the date of receipt is taken to be 06.09.2017, the statutory period of 30 days prescribed under the Rules would expire on 05.10.2017. In the present case, the impugned order was communicated to the petitioner only on 07.10.2017, i.e., beyond the stipulated period of 30 days.

65. In view of the provisions contained in Rule 15(5) of the Rules, 1984, which clearly stipulate that if no communication regarding approval or disapproval is made within 30 days from the date of receipt of the selection papers, the selection shall be deemed to have been approved, the consequence that necessarily follows is that the selection in question stood deemed to have been approved upon expiry of the prescribed period.

66. Accordingly, the subsequent communication of the impugned order, having been made beyond the statutory period, is rendered inconsequential in the eyes of law, and the selection of the petitioner, namely Vikas Alexander, must be held to have attained finality by virtue of deemed approval.

67. The controversy pertaining to the validity of the selection proceedings in the absence of a duly nominated representative of the Basic Shiksha Adhikari stands authoritatively considered in **State of Uttar Pradesh & 2 Others vs. Gunjan Singh & Another**⁴. In the said

4 Special Appeal No.10140 of 2024; Neutral Citation;2025:AHC:65115-DB

decision, the Court, while interpreting the statutory scheme, observed that it cannot remain oblivious to the practical realities and the mandate of the Rules, which cast an obligation upon the Management to conclude the selection process within a stipulated time frame.

68. The Court further held that where a request has been duly made by the Management for nomination of a representative, but the Basic Shiksha Adhikari either fails to nominate a specific individual or does not communicate the name of such nominee, the selection process cannot be rendered invalid on that ground alone.

69. Applying the aforesaid principle to the facts of the present case, it is evident that although no specific name of the nominee was communicated, Shri Jitendra Kumar Pandey did, in fact, participate in the proceedings of the Selection Committee, asserting himself to be the nominee of the Basic Shiksha Adhikari. His participation stands duly recorded, and the proceedings bear his signatures.

70. In such circumstances, the absence of formal nomination or communication thereof constitutes, at best, a procedural irregularity and not an illegality going to the root of the matter. The selection proceedings, having been conducted with the participation of a representative claiming to act on behalf of the competent authority, cannot be invalidated on such a hyper-technical ground.

71. Accordingly, the objection raised in the impugned order in this regard is unsustainable in law.

72. In **District Basic Shiksha Adhikari, Ambedkar Nagar & Another v. Chandraprakash Tripathi & Others**⁵, the Court had occasion to consider a similar controversy concerning the validity of selection proceedings in the absence of participation of the nominee of the District Basic Education Officer in the Selection Committee. The Court observed that although the composition of the Selection Committee is prescribed

⁵ Special Appeal Defective No.92 of 2016, Order dated: 02.03.2016; Neutral Citation:2016:AHC-LKO:2515-DB

under the statutory Rules to include the Manager of the institution, the Headmaster, and one nominee of the District Basic Education Officer, the selection process cannot be frustrated merely on account of non-participation of such nominee, particularly when the Management had duly requested the District Basic Education Officer to depute his representative. In the said case, despite a request having been made, the District Basic Education Officer failed to send any nominee, and consequently, the Selection Committee, comprising the remaining two members, proceeded to complete the selection process. The Court declined to interfere, holding that the authority could not be permitted to take advantage of its own lapse in failing to nominate a representative.

73. Applying the aforesaid principle to the facts of the present case, it is evident that a proper and timely request was made by the Manager of the institution to the District Basic Education Officer for deputation of his nominee. Pursuant thereto, one individual, namely Shri Jitendra Kumar Pandey, participated in the selection proceedings, asserting himself to be the nominee of the said authority, and his participation stands duly recorded in the proceedings.

74. In such circumstances, even if the name of the nominee was not formally communicated by the District Basic Education Officer, the participation of a representative claiming to act on his behalf, coupled with the prior request made by the Management, sufficiently satisfies the requirement of the Rules. At any rate, the absence of formal communication of the nominee's name cannot be construed as an illegality so as to vitiate the entire selection process.

75. Thus, the selection proceedings cannot be held to be bad in the eyes of law on this ground, particularly when the alleged lapse, if any, is attributable to the inaction or omission on the part of the authority itself.

76. So far as the contention raised regarding non-publication of the advertisement in two newspapers is concerned, the same is wholly untenable and devoid of merit. The records placed before this Court

unequivocally establish that the advertisement was, in fact, duly published in two widely circulated newspapers, thereby satisfying the prescribed requirement.

77. In such view of the matter, the objection sought to be raised at this belated stage, after culmination of the entire selection process, is clearly an afterthought and appears to have been taken merely to unsettle a concluded process. It is a settled principle of law that once a candidate has participated in the selection process without demur, he/she is estopped from subsequently challenging the same on grounds which were available at an earlier point of time.

78. Accordingly, the said ground, being misconceived and lacking in substance, does not merit acceptance and is hereby rejected.

79. The objection raised by the respondents with regard to the alleged lack of *locus standi* of the petitioner, and consequently the maintainability of the present writ petition, does not commend acceptance at this stage.

80. It is noteworthy that the writ petition was duly entertained by this Court as far back as the year 2018 and has since remained pending, with pleadings having been exchanged and the matter having proceeded substantially on merits. At such an advanced stage, it is no longer open to the respondents to assail the maintainability of the petition on a ground which was very much available to them at the threshold but was not pressed with due diligence.

81. The law is well settled that objections relating to maintainability, particularly on the ground of *locus standi*, ought to be raised at the earliest possible opportunity. Permitting such an objection to be entertained belatedly would not only defeat the cause of substantive justice but would also result in unnecessary protraction of proceedings that have already attained considerable maturity before the Court.

82. In the considered opinion of this Court, the belated plea of lack of *locus standi* is clearly an afterthought and is liable to be rejected. Accordingly, the said objection does not merit acceptance and stands overruled.

83. In view of the aforesaid submissions advanced on behalf of the petitioner, the precedents relied upon, and the discussion undertaken herein-above, this Court arrives at the considered conclusion that the impugned order cannot be sustained in the eyes of law. The same suffers from manifest arbitrariness, non-application of mind, and is contrary to the settled legal principles governing the field.

84. Accordingly, the impugned order dated 28.09.2017 passed by the District Basic Shiksha Adhikari, Gorakhpur is hereby set aside and quashed.

85. The writ petition, being meritorious, stands allowed.

86. Consequently, all consequential benefits shall follow.

87. No order as to costs.

(Mrs. Manju Rani Chauhan,J.)

April 03, 2026

Jitendra/-