

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 969 of 2021

Applicant :- Smt. Neelam Sagar

Opposite Party :- Smt. Anuradha Shukla, Secretary (Education)
Govt Of U.P. And Another

Counsel for Applicant :- Javed Husain Khan, Gulrez Khan

Hon'ble Rohit Ranjan Agarwal, J.

The writ Court on 04.03.2020 while disposing of Writ-C No. 7933 of 2020 passed the following order:-

"Heard learned counsel for the petitioner, learned Standing Counsel for the respondent nos. 1 to 6. Sri Gulrez Khan has appeared for the respondent nos. 7 to 11.

Learned counsel for the parties agree that the writ petition be disposed of at this stage without calling for a counter affidavit in the matter, considering the nature of order proposed to be passed.

This writ petition is by the Committee of Management, Kanya Shiksha Sadan Inter College, Bulandshahr, a recognised institution under the provisions of the U.P. Intermediate Education Act, 1921. It is aggrieved by an order of the State Government dated 3.2.2020 appointing an Authorized Controller in the Institution under Section 16D(4) of the Act of 1921. The order is assailed on following two grounds:-

"(i) That no opportunity of hearing has been given by the State Government before passing the order impugned. In support of such contention reliance is placed upon a judgment of this Court in Committee of Management, Gautam Buddha Inter College and another Vs. State of U.P. and others reported in 2016(7) ADJ 665.

(ii) It is then contended that in response to the notice issued by the Director on 24.7.2019, a detailed reply has been submitted by the petitioner, which has not been taken note of by the State Government while passing the order impugned. Submission is that merely stating that the petitioner's reply is not satisfactory would not suffice when specific allegations made in the complaint has been denied at length. It is also submitted that the recommendation of the Director has also not been furnished to the petitioner."

From the order of the State Government it is apparent that no opportunity of hearing has been given to the petitioner management before passing the order impugned. Even otherwise the reply submitted by the petitioner to the show cause notice has not been dealt with by the State Government. Once the State Government was inclined not to accept the explanation submitted by the petitioner, it was expected that the defence set up by the petitioner would be

referred to and reasons would be disclosed for not accepting petitioner's reply in the matter.

The manner in which the order impugned has been passed by the State Government clearly supports petitioner's contention that there is no application of mind at the level of the State Government to the reply submitted by the petitioner on merits. Instead of keeping the matter pending and directing the parties to exchange affidavits, it would be appropriate to dispose of this writ petition, at this stage itself, with an opportunity given to the authorities to deal with the grievance on merits after considering petitioner's reply and after affording an opportunity of hearing to the petitioner in the matter.

In that view of the matter, the order impugned dated 3.2.2020 stands quashed. The petitioner institution shall appear before the Director alongwith a certified copy of this order annexing all materials in support of its claim on 25th March, 2020. The Director shall refer the matter to the State Government alongwith petitioner's reply and the State Government would fix a date for hearing in the matter to the petitioner and any other aggrieved person, and a fresh order would be passed containing specific reasons and after opportunity of hearing to the parties, within a period of three months"

Today, learned Standing Counsel has placed the instructions so received by him. According to instructions, the order of writ Court has been complied with by State Government and a decision has been taken on 20.07.2023.

In view of said fact, as the order of writ Court was only to the extent that claim of the applicant was to be decided which State authorities have done, the contempt application is rendered infructuous and the same stands dismissed.

Contempt notice stands discharged.

Order Date :- 12.10.2023

V.S.Singh