

**Court No. - 9**

**Case :-** CONTEMPT APPLICATION (CIVIL) No. - 3784 of 2023

**Applicant :-** C/M Baba Mohan Das Laghu Madhyamik Vidyalay  
And Another

**Opposite Party :-** Ashish Kumar Singh, District Basic Education  
Officer, Maharajganj

**Counsel for Applicant :-** Bhagwan Dutt Pandey

**Hon'ble Rohit Ranjan Agarwal,J.**

The writ Court on 04.05.2022 while disposing of Writ-A No. 2267 of 2022 passed the following order:-

*"Heard Shri B.D. Pandey, learned Counsel for the petitioner, learned Standing Counsel for the State respondents.*

*Opportunities were granted to the learned Standing Counsel to seek instructions or to file short counter affidavit in the matter vide order dated 02.03.2022 and subsequently on 11.04.2022 but neither instructions have been received nor any short counter affidavit has been filed.*

*The present writ petition has been filed by the Committee of Management for direction to the respondent no.2 to grant permission to the petitioner to fill up the vacant post of Clerk and Class IV employees (None-Teaching Staff) as per U.P. Recognized Basic Schools (Junior High Schools) (Recruitment & Conditions of Service of Ministerial Staff & Group 'D' Employees) Rules, 1984.*

*Learned counsel for the petitioner has relied upon the judgment of this Court in the case of Committee of Management, Manorama Kanya Junior High School, Moradabad and another Vs. State of U.P. and 2 others passed in Writ-A No.5418 of 2019 and has submitted that the Government order dated 15.1.2019 has already been held to be illegal and arbitrary. The relevant paragraphs of the said order are reads as under:-*

*"34. Consequently, the Government Order dated 15.01.2019, insofar as it declares Class-III and Class-IV posts in junior high schools to be a dead cadre, is found to be wholly arbitrary, irrational, suffering from non application of mind and violative of Articles 14 & 21-A of the Constitution of India as also in teeth of the Act of 2009. The Government Order to that extent, accordingly, stands quashed. All consequential orders passed in the present bunch of writ petitions passed on different dates, declining permission to fill up the posts of Clerks and Class IV employees following the said Government Order, under challenge in the present bunch of petitions, are also quashed.*

*35. As a consequence, the post in Class III and Class IV cadre, already*

*sanctioned vide Government Order dated 2nd July, 1990, shall continue to exist and it shall be open to the private management to make appointments against it by following the procedure laid down in the Rules of 1984."*

*Considering the submission of learned counsel for petitioner, it is noticed that Government Order dated 15.01.2019 to the extent that it declares Group 'C' and 'D' to be a dying cadre has been quashed. The impugned order relying upon the said Government Order dated 15.01.2019 on the face of it is illegal and arbitrary and clearly contrary to the above judgement passed by this Court.*

*Learned Standing Counsel does not dispute the factual aspect that the said portion of the Government Order dated 15.01.2019, which has been duly considered and set aside by this Court.*

*Learned Standing counsel further submits that the order dated 24.9.2021 passed in Writ A No. 5418 of 2019 has been challenged in Special Appeal Defective No.30 of 2022. The said appeal has only been admitted for hearing and no interim order has been granted in favour of the State Government.*

*Consequently, the writ petition is disposed of with a direction to the petitioner to file a fresh representation before the respondent no.2, District Basic Education Officer, Maharajganj within two weeks from today and in case, such representation is filed the respondent no.2 is directed to decide the same within a period of two months thereafter in the light of order dated 24.9.2021 passed in Writ A No. 5418 of 2019 ."*

Today, a compliance affidavit has been filed on behalf of State, which is taken on record.

It is contended that order of writ Court has been complied with and representation as directed by writ Court has been decided on 13.06.2023. Copy of which has been brought on record as Annexure-4 to compliance affidavit.

In view of said fact, as the order of writ Court has been complied with, the contempt application is rendered infructuous and the same stands dismissed.

**Order Date :- 16.11.2023**

**V.S.Singh**