

Court No. - 35

Case :- WRIT - A No. - 10217 of 2023

Petitioner :- Srikrishna Tripathi And Another

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

Counsel for Petitioner :- V.R. Tiwari,Prabhakar Awasthi,Tanisha Jahangir Monir,Ea

Counsel for Respondent :- C.S.C.,Dev Kaushik,Ramesh Chandra Dwivedi,Sanjeev Singh,Shesh Kumar Srivastava,Utkarsh Tripathi

with

Case :- WRIT - C No. - 24650 of 2023

Petitioner :- C/M Sri Sachcha Adhyatm Sanskrit Mahavidyalaya And Another

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Tanisha Jahangir Monir,V.R. Tiwari

Counsel for Respondent :- C.S.C.,Dev Kaushik,Sanjeev Singh,Utkarsh Tripathi

Hon'ble Vikas Budhwar,J.

1. Heard Shri V.R. Tiwari, learned counsel for the writ petitioners in the leading and connected writ petitions, Shri H.K. Shukla, learned Standing Counsel who appears for the respondent Nos. 1 and 4 in the leading writ petition and respondent Nos. 1 and 2 in the connected writ petition, Shri Shesh Kumar Srivastava, learned Standing Counsel who appears for the respondent Nos. 2 and 3 in the leading writ petition and Shri Sanjeev Singh along with Shri Utkarsh Tripathi, learned counsel who appears for the fifth respondent in the leading writ petition and third respondent in the connected writ petition.

2. Since common question of facts and law are involved in WRIT - A No. - 10217 of 2023 Srikrishna Tripathi And Another Vs. State Of U.P. And 4 Others (in short 'leading writ petition') and WRIT - C No. - 24650 of 2023 C/M Sri Sachcha Adhyatm Sanskrit Mahavidyalaya And Another Vs. State Of U.P. And 2 Others (in short 'connected writ petition'), thus, with the consent of the parties the writ petition is being consolidated and decided by a composite order.

3. The counsels for the rival parties have made a joint statement that they do not propose to file any further affidavits thus with the consent of the parties, writ petitions are being decided at the fresh stage.

4. For the sake of clarity, the Writ A No. 10217 of 2023 (Srikrishna Tripathi And Another Vs. State Of U.P. And 4 Others) is treated as a leading writ petition and the Writ C No. 24650 of 2023 (C/M Sri Sachcha Adhyatm Sanskrit Mahavidyalaya And Another Vs. State Of U.P. And 2 Others) is treated as a connected writ petition.

5. The case of the writ petitioners as worded in both the petitions are that there happens to be an institution by the name of Sri Sachcha Adhyatm Sanskrit Mahavidyalaya, Arail, Naini, Prayagraj which is an aided Sanskrit Degree College managed by a society (Sant Sangh Prayagraj) registered under the Society Registration Act, 1860. The said institution imparts education from Class- Shastri to Acharya (Graduation to Post Graduation) and is classified as Grade-A category duly recognised since 1972 and is affiliated with the Sampuranand Sanskrit Vishwavidyalaya, Varanasi (hereinafter referred to as the University).

6. As per the writ petitioners, the institution in question is a boarding Sanskrit Mahavidyalaya wherein more than 300 students reside.

7. According to the writ petitioners, one Shri Kripashankar Mishra was appointed Lecturer (Nyay) pursuant to the order dated 21.04.1998 by the petitioner No. 2 in the leading writ petition, Sri Sachcha Adhyatm Sanskrit Mahavidyalaya, Arail, Naini, Prayagraj. Since approval was not accorded to the appointment of Shri Kripashankar Mishra which occasioned filing of writ petition No. 59216 of 2019 (Kripashankar Mishra Vs. State of U.P.) which along with other writ petitions came to be disposed of on 07.11.2009 requiring the District Inspector of Schools, Prayagraj to accord consideration. On 19.11.2009, the District Inspector of Schools, Prayagraj proceeded to approve the appointment of Shri Kripashankar Mishra along with others on the post of head of the department, Nyay, Lecturer. In para 9 of the writ petition, it is asserted that the payment of the salary of Shri Kripashankar Mishra was stopped

by the District Inspector of Schools, Prayagraj in the month of October, 2010 and thereafter by virtue of an order of dated 15.11.2016, the payment of the salary was made to Shri Kripashankar Mishra post completion of enquiry.

8. It is the further case of the writ petitioners that one Smt. Shraddha Misrha who was working on the post of the head of the institution on the charge, officiating principal superannuated on 30.06.2021 and thereafter the charge was handed over to the writ petitioner No. 1, Srikrishna Tripathi by the committee of management of the institution in question and the signatures is stated to have been attested on 01.07.2021.

9. As per the writ petitioners by virtue of an order dated 28.07.2021, Shri Kripashankar Mishra was placed under suspension. In para 12 of the writ petition, it is asserted that Shri Kripashankar Mishra approached the District Inspector of Schools, Prayagraj questioning the act of the committee of management placing him suspension.

10. It is the further case of the writ petitioners that on 29.07.2021, the District Inspector of Schools, Prayagraj passed an order directing the committee of management of the institution in question to hand over the charge of officiating principal to Shri Kripashankar Mishra followed by an order dated 04.08.2021 directing the manager of committee of management of the institution to produce all documents relating to suspension of Shri Kripashankar Mishra. Another order was passed on 06.08.2021 revoking the suspension of Shri Kripashankar Mishra.

11. Challenging the said orders, the writ petitioner-Srikrishna Tripathi preferred Writ A No. 12139 of 2021 (Srikrishna Tripathi Vs. State of U.P.) in which the following orders were passed:

“Supplementary affidavit filed today in Court, is taken on record.

Heard Ms. Tanisha Jahangir Monir, learned counsel for the petitioner, learned Standing Counsel for the State respondent nos. 1 & 4, Sri Mani Shanker Mishra, holding brief of Sri Ved Byas Mishra, learned counsel for respondent nos. 2 and 3, Sri Chandan Sharma, learned counsel for respondent no. 5, Sri Satish Chandra Mishra, learned counsel for respondent nos. 6 and Sri V.R. Tiwari, learned counsel for respondent no. 7.

The petitioner, by means of the present writ petition, has assailed the impugned orders

dated 29.07.2021, 04.08.2021 & 06.08.2021, passed by respondent no.4-District Inspector of Schools, Prayagraj (hereinafter referred to as the 'DIOS')

By the order dated 29.07.2021, respondent no.4-'DIOS', Prayagraj has directed the Committee of Management of the College to hand over the charge of 'Officiating Principal' to respondent no.5; by the order dated 04.08.2021 he has directed the Manager of the Committee of Management of the College to produce all the documents relating to suspension of respondent no.5 and by the order dated 06.08.2021 he has revoked the suspension order of respondent no.5 as 'Officiating Principal' of the College.

The substantive post of 'Principal' came into existence in the College after retirement of one Smt. Shradha Mishra on 30.06.2021. The Committee of Management passed a resolution on 28.06.2021 appointing the petitioner as 'Officiating Principal' of the College. Subsequent thereto, the signature of the petitioner has been attested by the 'DIOS', Prayagraj by order dated 01.07.2021.

It appears that in the meantime, the Committee of Management has suspended the respondent no.5-Sri Kripa Shankar Mishra in exercise of its power under Statute 17.4 & 17.5 of Statute of Sampurnanand Sanskrit University, Varanasi. Thereafter, the respondent no.5 has approached the 'DIOS' Prayagraj claiming that he is entitled to be appointed as 'Officiating Principal' being the senior most Teacher in the College. Acting upon the representation of respondent no.5, the orders impugned in the writ petition, have been passed by the 'DIOS' Prayagraj.

It is contended by the learned counsel for the petitioner that the impugned orders are illegal and without jurisdiction since the 'DIOS' Prayagraj has no jurisdiction to revoke the suspension order.

She further submits that the suspension order has been passed by the Committee of Management in exercise of power conferred under Statute 17.4 & 17.5 of Sampurnanand Sanskrit University Statute and shall remain in force till it is set aside by the competent authority or by a Court of Law. She further submits that there is no provision in the Sampurnanand Sanskrit University Statute which confers power upon the 'DIOS' to revoke or cancel the suspension order passed by the Committee of Management.

Further submission of the learned counsel for the petitioner is that there is no dispute that since the signature of the petitioner has been attested, therefore, the petitioner ought to have been afforded opportunity of hearing before passing the impugned orders, whereas no opportunity of hearing has been afforded to the petitioner, thus, the order impugned have been passed in violation of principal of natural justice, accordingly, she submits that the impugned orders are not sustainable in law.

Per contra, learned counsel for the respondents would contend that under the Government Order dated 21.04.1998, the 'DIOS' has jurisdiction to revoke the suspension to enquire about any matter relating to the irregularities in the Institution, accordingly, they submit that the orders impugned have been passed by the competent authority.

Matter requires consideration.

All the respondents are granted four weeks' time to file counter affidavit. Four weeks' thereafter, is allowed to the petitioner for filing rejoinder affidavit.

List this case on 29th November, 2021.

Until further orders of this Court, the effect and operation of the impugned orders dated 29.07.2021, 04.08.2021 & 06.08.2021 respectively, passed by respondent no.4-District Inspector of Schools, Prayagraj, shall remain stayed.”

12. It is the further case of the writ petitioners that in order to circumvent the effect of the interim order passed on 30.09.2021 in Writ A No. 12139

of 2021, Srikrishna Tripathi Vs. State of U.P. and others, the Vice Chancellor, Sampuranand Sanskrit Vishwavidyalay, Varanasi proceeded to issue a communication on 13.04.2022 addressed to the writ petitioners herein requiring them to appear for hearing in the matter of the suspension of Shri Kripashankar Mishra.

13. In between, according to the writ petitioners, an order is stated to have been passed by the Registrar of the Sampuranand Sanskrit Vishwavidyalay, Varanasi granting on 15.06.2022 granting recognition, Sri Shiv Kumar Pal, Manager and the President, Swami Gopal Ji Maharaj. The order dated 15.06.2022 was subject matter of challenge in Writ A No. 9072 of 2022, Srikrishna Tripathi and others Vs. State of U.P. in which the following order was passed:

“Supplementary affidavit filed today is taken on record.

Heard learned counsel for the petitioners, learned Standing Counsel for respondent nos. 1 and 4 and Sri Avneesh Tripathi, learned counsel for respondent nos. 2 and 3.

All the respondents may file counter affidavit within three weeks.

Put up as fresh case on 27.07.2022.

Till then status quo with regard to working of petitioner no. 1, Committee of Management of Institution, respondent no. 2, shall be maintained.”

14. The said order was corrected by this Court on 26.09.2022 which is as under:

“Order on Civil Misc. Correction Application No. 03 of 2022

Heard learned counsel for the petitioners.

This is the correction application for correction in the order dated 24.06.2022.

In the 2nd line of last paragraph of the order dated 24.06.2022, in place of 'respondent no. 2', 'petitioner no. 2' shall be read.

The correction application is allowed.

This order shall be treated as part of the order dated 24.06.2022.”

15. It is the further case of the writ petitioners that on 28.10.2022, the Vice Chancellor of the Sampuranand Sanskrit Vishwavidyalay, Varanasi proceeded to pass an order whereby it held the suspension of Shri Kripashankar Mishra to be illegal as the same was not approved by the University in question as per the statute 17.06 (3) and further the suspension of the Shri Kripashankar Mishra was by a Committee of Management which was time barred.

16. Being aggrieved against the order dated 28.10.2022 passed by the

Vice Chancellor, Sampuranand Sanskrit Vishwavidyalay, Varanasi, the writ petitioners preferred Writ A No. 20292 of 2022 which came to be decided on 13.12.2022 while passing the following order:

“Heard Sri Prabhakar Awasthi alongwith Ms. Tanisha Jahangir Monir, learned counsel for the petitioner, Sri Avneesh Tripathi, learned counsel for the respondent no.3 and Sri Shesh Kumar Srivastava, learned counsel for the respondent no.6.

Present petition has been filed to assail the order passed by the Vice Chancellor, Sampurnanand Sanskrit Vishwavidyalaya, Varanasi dated 28.10.2022.

By that order the said authority has disapproved the suspension order of respondent no.6.

Briefly it may be noticed petitioner no.1 and respondent no.6 are in bitter litigation since before. In any case by virtue of interim order passed in Writ Petition Nos.12139 of 2021 and 9072 of 2022 the officiating charge of the institution, Sri Sachcha Adhyatm Sanskrit Mahavidyalaya, Arail, Prayagraj is with petitioner no.1.

At the same time the petitioner no.2/Committee of Management of the said institution suspended the service of respondent no.6 vide order dated 28.7.2021. Aggrieved by that the petitioner no.6 appears to have approached Vice Chancellor seeking his disapproval of the suspension order. Learned counsel for the petitioner would contend that no such objection was raised. However, that fact between the parties may not detain the Court any further in view of the order proposed to be passed.

Whether arising from any objection raised by respondent no.6 or in exercise of suo moto power, inasmuch as the Vice Chancellor was proposing to revoke the suspension order passed against the respondent no.6 that too on an enquiry report dated 22.10.2022 arising from the enquiry committee constituted a day earlier on 21.10.2022, minimum requirement of rules of natural justice would command that such enquiry report ought to have been confronted to the petitioner no.2 and adequate opportunity ought to have been given to the petitioner before any order may have been passed to revoke the suspension of respondent no.6.

Perusal of the impugned order itself reveals, no notice was issued to the petitioner before the impugned order came to be passed.

On query made, learned counsel for the respondent no.6 could also not submit that any notice was issued of any proceeding by the Vice Channcellor. He would however contend since the suspension order was wholly malafide, the Vice chancellor has not erred in disapproving the same.

The objection thus raised cannot be accepted. In the context of infringement of rules of natural justice, the final outcome of the proceeding may not be speculated by the writ court if opportunity of hearing was denied. That extreme conclusion is not required to be drawn in such contested matter.

Accordingly, the order is set aside. The matter is remitted to the Vice Chancellor-respondent no.3 to pass a fresh order strictly in accordance with law.

It is made clear, in so far as the officiating charge of Principal of the Institution is concerned that may abide by the further order that may be passed in the pending litigation.

In so far as respondent no.6 claims non payment of subsistence allowance, subject to respondent no.6 filing a proper claim before Committee of Management, same may be dealt with and decided by reasoned order. Any amount found payable may be paid out within a period of one month from the claim being preferred.

Accordingly, the petitioner stands disposed of.”

17. The writ petitioners further claim that on 08.01.2023, the Registrar of the Sampuranand Sanskrit Vishwavidyalay, Varanasi issued a communication requiring the writ petitioners and the committee of management who had been approved by the University as well as Shri Kripashankar Mishra for hearing on a specific date. Further communications have been issued on 24.01.2023 followed on 12.02.2023 and 27.03.2023.

18. The writ petitioners further claim to have responded to the same on 08.02.2023, a copy whereof is appended as Annexure-13 page 69 of the paper-book reference whereof has been given in para 24 of the writ petition.

19. Now according to the writ petitioners, an order has been passed by the Vice Chancellor of the University dated 27.04.2023 holding that the suspension of Shri Kripashankar Mishra was illegal.

20. Questioning the order dated 27.04.2023, the leading writ petition has been filed. The said writ petition was entertained by this Court on 09.08.2023, wherein the following orders were passed:

“Sri V.R. Tiwari learned counsel who appears for the petitioner submits that the order impugned dated 27.04.2023 revoking the suspension of the fifth respondent proceeds on misconception of facts. He submits that the exercise of power by the Vice Chancellor of the respondent University suo motu was not permissible.

Sri Sanjeev Singh learned counsel who appears for the fifth respondent has produced before this Court a set of three documents dated 28.07.2021 placing the fifth respondent under suspension on 19.02.2022 revoking the suspension order as well as the document dated 03.04.2022 again suspending the fifth respondent. He has also relied upon an order in Writ C No. 4054 of 2022 dated 05.05.2022 whereby the writ petition of the Executive Committee of the institution in question was dismissed. This Court before delving into the issue grants a week's time to the counsel for the parties to file the aforesaid documents which have been forwarded to the Court and also the copy of the charge sheet, if any, order of appointment of the Inquiry Officer, Presenting Officer as well as the minutes of the inquiry proceedings.

Put up this case as fresh on 21.08.2023 the issue with regard to maintainability of the writ petition at the behest of the petitioners No. 1 and 2 shall also be addressed by the respective parties on the next date fixed.”

21. A counter affidavit has been filed by Shri Kripashankar Mishra to which a rejoinder affidavit has been filed.

22. During the pendency of the aforesaid writ petition and in absence of any interim protection accorded to the writ petitioners in the leading writ

petition, an order is stated to have been passed on 24.06.2023 under the provisions of Section 3(3) of the U.P. High School and Intermediate Colleges (Payment of Salary of teachers and other employees) Act, 1971 by the District Inspector of Schools, Prayagraj. This led to filing of the connected writ petition, questioning the order dated 24.06.2023 passed by the District Inspector of Schools, Prayagraj. On the connected writ petition, being presented before the Court on 23.08.2023, the following orders were passed:

“1. Learned counsel for the both the sides are present.

2. By means of the present writ petition, the order dated 24.06.2023 directing single hand operation of financial accounts of the petitioner-Institution has been challenged insofar as it relates to respondent No. 3.

3. It is has been contended by the learned counsel for the petitioners that the order impugned has been passed by committing violation of principles of Natural Justice, whereas it has been argued by Shri Sanjeev Singh, learned counsel for respondents that the writ petition is not maintainable.

4. From perusal of the record, I find that the order impugned has been passed as a consequence of the order dated 27.04.2023, whereby the Vice Chancellor of the University has directed the District Inspector of Schools to make payment of salary to respondent No. 3 after disapproving the suspension of respondent No. 3.

5. It is admitted to the learned counsel for the parties that challenging the order dated 27.04.2023, the petitioners have filed Writ A No. 10217 of 2023 (Srikrishna Tripathi and another vs State of U.P. and 4 others), which is sub-judice before this Court.

6. Insofar as this writ petition is concerned, it was wrongly categorized as Writ A No. 11228 of 2023 and has been renumbered as Writ C No. 24650 of 2023 and has been placed before this Court.

7. In view of nature of controversy involved in the matter, I find that in order to avoid conflicting orders in these two matters, both the cases require simultaneous consideration.

8. It is informed that 28.08.2023 is the next date fixed in Writ A No. 10217 of 2023.

9. In the interest of justice, put up this case as fresh along with Writ A No. 10217 of 2023 on 28.08.2023 before the appropriate Bench after obtaining nomination from Hon'ble the Chief Justice as per the Administrative Order dated 05.12.2018 passed by Hon'ble the Chief Justice.”

23. There is an office report dated 25.08.2023 which reads as under:

“In view of administration order of Hon'ble the Chief Justice dated 05.12.2018 and as per current so far as tis Writ C No. 24650/2023 is put up before Hon'ble the Senior most bench (Hon'ble Mr. Justice Vikas Budhwar) along with Writ A No.10217 of 2023.”

24. Since the learned counsel for the parties have made a statement at bar that they do not propose to file further response thus with their consent, the writ petitions as noticed above are being decided.

25. Shri V.R. Tiwari, learned counsel for the writ petitioners in both the writ petitions have sought to argue that the order dated 27.04.2023 passed by the Vice Chancellor of the respondent-University cannot be sustained for a single movement, particularly, in view of the fact that the respondent-University had no jurisdiction or authority to have gone into the issue of suspension of Kripashankar Mishra. He submits that in pursuance of the Government Order dated 21.04.1998, the competent authority to approve the appointment, issue relating to suspension and termination vest with District Inspector of Schools, Prayagraj and not with the University. According to him when on 28.07.2021, Shri Kripashankar Mishra was placed under suspension by the committee of management then and unsuccessful attempt was made by the District Inspector of Schools, Prayagraj while passing three orders namely, 29.07.2021 directing the committee of management of the institution in question to hand over the charge of officiating principal to Shri Kripashankar Mishra, order dated 04.08.2021 to produce the documents pertaining to the suspension of the Shri Kripashankar Mishra and order dated 06.08.2021 revoking the suspension and this Court at that point of time intervened and accorded interim protection on 30.09.2021 in Writ A No. 12139 of 2021. According to him once the matter was subjudice before the Hon'ble High Court then there was no occasion for the Vice Chancellor of the respondent-University to have initiated simultaneous proceedings in that regard.

26. Submission is that proprietary demanded till a final verdict is given by this Court, it was proper for the Vice Chancellor to have denuded from proceedings in any manner whatsoever. It is the further submission of the learned counsel for the writ petitioners that already a charge sheet has been served upon Shri Kripashankar Mishra on 30.07.2021 and the charges themselves are serious and grave thus there was no occasion for revoking the suspension in that regard. It is also submitted by the counsel for the writ petitioners that once an order has been passed in Writ A No. 9072 of 2022 preferred by the writ petitioners against the order dated

15.06.2022 granting recognition to the committee of management of the other fraction and there exists a status quo order then the finding recorded in the order impugned of the Vice Chancellor that the suspension of Shri Kripashankar Mishra is by incompetent authority being a time barred, committee of management is itself illegal. He thus submits that the order in question be set aside.

27. Shri Sanjeev Singh who appears for Shri Kripashankar Mishra, on the other hand submits that so far as the writ petitioner No. 1 in the leading writ petition, Srikrishna Tripathi is concerned, he has no locus to prefer the present writ petition as prior to the petitioner No. 1, Srikrishna Tripathi, Shri Kripashankar Mishra was officiating and only after the suspension of Shri Kripashankar Mishra, Srikrishna Tripathi was handed over the charge of officiating principal thus it was only a stop gap arrangement which would not cloth, the writ petitioner No.1 to maintain the present petition as he does not have to any locus or cause of action to maintain the writ petition.

28. It is further argued on behalf of Shri Kripashankar Mishra that it is not open for the committee of management of the institution in question (petitioner No. 2 in the leading writ petition) to question the jurisdiction of the Vice Chancellor on the issue the suspension of Shri Kripashankar Mishra particularly when the institution in question is governed under the provisions of the Sampurnanand Sanskrit University Act. Shri Singh while refering to the counter affidavit filed by him has invited the attention towards Annexure CA-3 page 21 of the counter affidavit so as to contend that while considering the provisions contained under the statutes of the year 1978 of the respondent-University being Clause 11.16, the approval of the appointment of Shri Kripashankar Mishra was accorded by the District Inspector of Schools, Prayagraj on 19.11.2009, further he has invited the attention of the Court towards the order placing Shri Kripashankar Mishra under suspension dated 28.07.2021 wherein a copy has also been marked to the respondent-University. He submits that in view of the provisions contained under the statutes which has been

annexed at page 80 of the counter affidavit there happens to be a specific provision in the statutes of the University being Clause 17.06 (3) wherein approval of the suspension is a condition precedent. He further submits that though as per the writ petitioners Shri Kripashankar Mishra was placed under suspension on 28.07.2021 and a charge sheet was issued on 30.07.2021 but on 19.02.2022 the committee of management of the institution in question revoked the suspension order however, now again by virtue of the order dated 30.04.2022 the order dated 19.02.2022 has been revoked/cancelled. He further submits that there are no circumstances pointed out by the writ petitioners resorting to such type of action in that regard. According to Shri Sanjeev Singh barring issuance of the charge sheet dated 30.07.2021 there is nothing on record to suggest that the committee of management proceeded to conduct departmental enquiry while appointing enquiry officer and fixing date time or venue for holding of oral enquiry. As regards the issue of the locus of the committee of management is concerned, he has argued that a new committee of management came into operation on 15.06.2022 wherein the committee of management of a different fraction has been recognised and since charge has already been taken by the other fraction thus passing was status quo order on 24.06.2022 in Writ A No. 9072 of 2022 would not be any aid or assistance to the writ petitioners. He seeks to rely upon the judgment in the case of Nand Dev Pandey Vs. Committee of Management reported in AIR 1991 SC 413 so as to contend that suspension and holding of departmental enquiry is permissible only at the end of a legally elected committee of management. He submits that the grounds which the writ petitioners is seeking to raise regarding the competence of the University to go into the issue of suspension of the Shri Kripashankar Mishra at no point of time was raised as he seeks to rely upon the explanation/submission made by the petitioners before the University dated 08.02.2023 which is Annexure-13 page 69 of the paperbook. He thus submits that the writ petitions be dismissed.

29. Shri Shesh Kumar Srivastava who appears for the respondent-

University has adopted the submission of Shri Sanjeev Singh who appears for Shri Kripashankar Mishra and according to him it is the University which is to take decision as per the Ordinances and Regulations of the University in the matter of suspension. He submits that the order passed by the Vice Chancellor of the University cannot be faulted with.

30. Shri H.K. Shukla who appears for the State official respondents also adopts the submission of Shri Sanjeev Singh who appears for Shri Kripashankar Mishra and according to him the order is passed by the Vice Chancellor is within its authority and it is Vice Chancellor of the University who is to accord consideration in the matter of approval/disapproval of suspension.

31. At this juncture, Shri Sanjeev Singh has produced before this Court, two sets of documents, one of District Inspector of Schools, Prayagraj dated 10.10.2023 whereby Shri Kripashankar Mishra has been accorded placement in Sarvaya Adarsh Sanskrit Mahavidyalaya and he has also been relieved by the petitioner No. 2 institution on 11.10.2023. The said developments have not been disputed by Shri V.R. Tiwari who appears for the writ petitioners.

32. I have heard the learned counsel for the parties and perused the record carefully.

33. Undisputedly, the petitioners' committee of management, Sri Sachcha Adhyatm Sanskrit Mahavidyalaya, Arail, Naini, Prayagraj is affiliated to Sampurnanand Sanskrit Vishwavidyalaya since 1972 and off course the institution is governed under the statutes of the University framed under Sub-Section (1) of Section 50 of the State University Act, 1973. At this stage, it would be apposite quote para 4 of the leading writ petition:

“4. That, petitioners' educational institution namely 'Sri Sachcha Adhyatm Sanskrit Mahavidyalaya, Arail, Naini, Prayagraj' is an aided Sanskrit Degree College, managed and run by a Society (Sant Sangh Prayag), registered under the Societies Registration Act. The institution imparts education from Class-Shastri to Acharya (Graduation to post Graduation), it comes under Grade-A category (क वर्गीय संस्कृत महाविद्यालय), duly recognised since 1972, and is affiliated with Sampurnanand Sanskrit

Vishwavidyalaya, Varanasi (hereinafter referred to as the university). Affairs of the institution governed with Statue of the University, framed under Sub-Section (1) of Section 50 of the State Universities Act, 1973.”

34. It is come on record and parties are also not in dispute that the appointment of Shri Kripashankar Mishra along with others came to be approved by the District Inspector of Schools, Prayagraj, pursuant to the filing of the writ petition by the appointees including Shri Kripashankar Mishra in Writ A No. 59216 of 2006 (Shri Kripashankar Mishra Vs. State of U.P.). The order approving their appointment has been annexed as Annexure-3 at page 21 passed by the District Inspector of Schools, Prayagraj on 19.11.2019. The said order suggest that the approval has been accorded in terms of the statutes of the Sampurnanand Sanskrit University. Once the said undisputed position is emerging from the record then obviously the statutes and the ordinances of the Sampurnanand Sanskrit University would apply and play a role in the matter of suspension of the teaching staff as provided under statute 11.24 and 17.06(3). The petitioners' committee of management while placing Shri Kripashankar Mishra under suspension on 28.07.2021 had also made a communication to the University as the name of the University finds place in the suspension order under the heading of the authorities to whom communication is to be made. Though it is being sought to be argued by the learned counsel for the writ petitioners that once an order disapproving of the suspension of Shri Kripashankar Mishra was stayed in the writ proceedings in Writ A No. 12139 of 2021 on 30.09.2021 then it was not open for the University to initiate simultaneous proceedings looks to be attractive at the first blush however it may not detain the Court any more particularly in view of the fact that as per the statutes of the University the suspension of a teacher of a Sanskrit Mahavidalayay College is to be approved by the University. So far as the reliance placed by the writ petitioners upon the Government Order dated 21.04.1998 is concerned the same is referable to approval for payment of salary and the same cannot taken away the rights of the University in the matter of approving or disapproving the suspension. Apart from the same, it is the

writ petitioners who subjected themselves before the University while making submissions and rightly the said objection was not raised before the University but now such type of objections are being raised having no basis whatsoever. This Court in the present proceedings is not required to go into the issue as to whether the petitioner No. 2 of the leading writ petition, committee of management is time barred or not and whether it is still in effective control or not in the wake of recognition accorded by the University on 15.06.2022 and passing of status quo order on 24.06.2022 by this Court in Writ A No. 9072 of 2022, but there is nothing on record to demonstrate before this Court as to what is the stand of the writ petitioners backed by the documents to show that the petitioners' committee of management is in effective control of the institution. Though the said aspect of the matter has been dealt with by the Vice Chancellor in the order dated 27.04.2023 but pleadings are totally lacking in the present writ petition questioning the said finding. Thus, this Court is not in a position to subscribe to the contention of the writ petitioners. On a pointed query being raised to Shri V.R. Tiwari as to what was the necessity to pass order dated 30.04.2022 revoking the order dated 19.02.2022 which in fact further revoked the suspension order dated 28.07.2021, the only reply of Shri V.R. Tiwari counsel for the writ petitioners is that the stand taken earlier was not a conscious decision and he sought to rely upon page 115 of the rejoinder affidavit being resolution of the committee of management. On being further asked as to whether any inquiry proceedings based appointment of the enquiry officer has been conducted, no reply whatsoever has been given in that regard. This Court further finds that there happens to be a finding in the order impugned that even in fact for a period of 18 months the subsistence allowances have been paid and further it is also not being placed before this Court that enquiry is being proceeded with.

35. Considering the case from all points of angles this Court is of the firm opinion that the order of the Vice Chancellor dated 27.04.2023 impugned in the writ petition does not suffer from any manifest illegality so as to

accord interference in the present proceedings particularly when pleadings are lacking so as to assailing the finding of facts recorded therein.

36. Accordingly, the writ petition being devoid of merits is liable to be **dismissed**.

37. Since, it has been come to the notice of the Court that Shri Kripashankar Mishra has been attached to Shri Sarvaya Sanskrit Mahavidyalaya, Prayagraj as an officiating principal by the District Inspector of Schools, Prayagraj on 10.10.2023 and he has been relieved from the petitioner institution on 11.10.2023 thus this Court in absence of any pleadings set forth in the said writ petition questioning the said action is not delving into the said issue however leaving it open to the legally elected committee of management of the institution to take appropriate action while drawing proceedings as permissible under law.

38. As the leading writ petitioner questioning the order dated 27.04.2023 passed by the Vice Chancellor of Sampurnanand Sanskrit University has been dismissed. Thus the order dated 24.06.2023 of the District Inspector of Schools passed under Section 3(3) of the U.P. Act No. 24 of 1971 needs no interference. Accordingly, the connected writ petition is **dismissed**.

39. It is clarified that the dismissal of the connected writ petition would not preclude the legally elected committee of management of the petitioner's institution to approach the District Inspector of Schools apprising him about the subsequent events which have occurred in the light of the order of the District Inspector of Schools, Prayagraj dated 10.10.2023 and relieving of Shri Kripashankar Mishra on 11.10.2023 from the petitioner's institution.

Order Date :- 02.11.2023

A. Prajapati