

Court No. - 10**Case :-** WRIT - C No. - 24978 of 2023**Petitioner :-** C/M Pawanagar Mahavir Sanskrit Uchchatar Madhyamik Vidyalaya And Another**Respondent :-** State Of U.P. And 5 Others**Counsel for Petitioner :-** Sankalp Narain,Hritudhwaj Pratap Sahi,Samarath Singh**Counsel for Respondent :-** C.S.C.,Shesh Kumar Srivastava**Hon'ble Kshitij Shailendra,J.**

1. Heard Shri V.K. Singh, learned Senior Counsel assisted by Shri H.P. Sahi, learned counsel for the petitioners, learned Standing Counsel for respondent nos.1, 2, 3, 4 and 6 and Shri Dev Kaushik, learned counsel holding brief of Shri Shesh Kumar Srivastava, learned counsel for respondent no.5 and perused the record.

2. The case of the petitioner is that the petitioners-Institution was granted permanent recognition upto Uttar Madhyama i.e. Intermediate by Sampurnanand Sanskrit University, Varanasi. The Institution was thereafter taken on the grant-in-aid list of the State Government only upto Purva Madhyama i.e. High School in 2016. Thereafter, the petitioners-Institution represented before the Authorities stating that in view of permanent recognition upto Purva Madhyama, the Institution be also taken on grant-in-aid list for Uttar Madhyama.

3. The matter proceeded at the level of the Authorities and ultimately, the University issued a letter dated 03.02.2016 stating that in the meeting dated 10.03.1991, held by the Executive Council of the University, erroneously, in place of "Uttar Madhyama", the words "Purva Madhyama" have been incorporated and, therefore, the error be rectified.

4. Some dispute arose with regard to the genuineness of the letter dated 03.02.2016, however, ultimately, the Joint Director of Education, by a detailed letter dated 22.12.2016, informed the State Government that after verification, issuance of letter dated 03.02.2016 was found to be established and, accordingly, necessary proceedings be held in the matter.

5. The contention of learned Senior Counsel is that in furtherance of the aforesaid, the State Government sent a letter dated 04.01.2017 to the Director of Education (Madhyamik), U.P., Lucknow directing him that since recognition to the petitioners-Institution stood substantiated upto Uttar Madhyama, treating the recognition upto Uttar Madhyama, permission to pay salary to the teachers be issued. It is contended that the letter dated 04.01.2017 was complied with and the teachers started receiving salary from the State Exchequer.

6. The submission is that since despite the aforesaid, no formal letter of recognition was being issued by the University, the petitioners filed Writ A No.12381 of 2021 (C/M Pawanagar Mahavir Sanskrit Uchchatar Madhyamik Vidyalaya and Another v. State of U.P. and 4 Others) praying Writ of Mandamus to the Competent Authority to pass appropriate orders for bringing the Uttar Madhyama (Intermediate section) of the institution in question under grant-in-aid and pay salary to the teachers of Uttar Madhyama (Intermediate Section) from the State Exchequer.

7. The said writ petition was disposed off by order dated 21.09.2021 permitting the petitioners to file representation before the State Government and the Government was directed to take a decision in the matter.

8. Since the order was not complied with, a Contempt Application (Civil) No.3321 of 2022 (C/M Pawanagar Mahavir Sanskrit Uchchatar Madhyamik Vidyalaya And Another v. Smt. Aradhana Shukla Secretary Secondary Education, Govt. of U.P. and Another) was filed whereafter the order impugned dated 21.03.2023 has been issued by the State Government rejecting the petitioners' representation.

9. The **only ground** for rejecting representation in the order impugned is that since the University has not issued a formal administrative order in favour of the petitioners regarding recognition to Uttar Madhyama Section, the representation is liable to be rejected.

10. The submission of learned Senior Counsel is that once all the proceedings were already held in favour of the petitioners and the only issue was with regard to issuance of formal recognition letter and even in absence of the same, grant-in-aid should not and could not have been refused, the reasoning assigned in the order impugned is quite surprising and it appears that the State Government has simply relied upon inaction on the part of the University to issue a formal recognition and has not gone into the merits of the claim.

11. Shri Dev Kaushik, learned counsel appearing for the University has placed before this Court instructions dated 01.10.2023 furnished by the University, which are taken on record. The stand taken in the Instructions is as follows:-

"माननीय उच्च न्यायालय इलाहाबाद में योजित याचिका
सं० 24978/2023 पावानगर महावीर संस्कृत उच्चतर
माध्यमिक विद्यालय, फाजिलनगर, कुशीनगर बनाम स्टेट

आफ यू० पी० व अन्य के सम्बन्ध में अवगत कराना है कि पावानगर महावीर संस्कृत उच्चतर माध्यमिक विद्यालय, फाजिलनगर, कुशीनगर को वर्ष 1971 से पूर्वमध्यमा की स्थायी मान्यता प्राप्त थी। मान्यता उच्चीकरण के आवेदन पर कार्यपरिषद की बैठक दिनांक 10.03.1991 द्वारा पुनः पूर्वमध्यमा स्तर की मान्यता स्वीकृत की गयी थी। पुनः पूर्वमध्यमा स्तर की मान्यता स्वीकृत किया जाना त्रुटिवश हुआ था। इसके संशोधनार्थ मान्यता समिति की बैठक दिनांक 10.04.2015 द्वारा संशोधनार्थ यह संस्तुति की गयी कि दिनांक 10.03.1991 से पावानगर महावीर संस्कृत उच्चतर माध्यमिक विद्यालय, फाजिलनगर, कुशीनगर को उत्तरमध्यमा पर्यन्त मान्यता दिया जाय एवं इससे कार्यपरिषद को अवगत कराया जाय।

उक्त परिप्रेक्ष्य में निर्गत विश्वविद्यालयीय पत्रांक-जी० 5792/2860/71/-16 दिनांक 03.02.2016 द्वारा महाविद्यालय को दिनांक 10.03.1991 से उत्तरमध्यमा पर्यन्त स्थायी मान्यता दिये जाने के तथ्य से अवगत कराया गया। अतएव मा० न्यायालय के समक्ष उक्त याचिका की सुनवाई हेतु आवश्यक कार्यवाही करने का कष्ट करें।"

12. A perusal of the aforesaid instructions and the stand of the University shows that, even as on today, the University realizes its mistake committed in the meeting of the Executive Council dated 10.03.1991 and agrees for according recognition to the petitioners-Institution upto Uttar Madhyama w.e.f. 10.03.1991.

13. Learned Standing Counsel submits that the State Government has rightly rejected representation of the petitioners, inasmuch as, before the State Government, there was no formal recognition letter issued by the University.

14. Having heard learned counsel for the parties, I find that once the mistake in the meeting of the Executive Council dated 10.03.1991 was noticed at the level of the University and also Director of Education and the State Government and pursuant to an order of the State Government dated 04.01.2017, the permission to pay salary to the teachers from State Exchequer was already issued, merely because a formal recognition order was not issued by the University, the same, by itself, could not justify rejecting the claim of the petitioners-Institution.

15. The University also has come up with the stand that in place of "Purva Madhyama", recognition has to be granted in relation to "Uttar Madhyama".

16. There being nothing on record or otherwise to demonstrate that apart from the aforesaid proceedings, some other material is there denying claim of the petitioners, the order impugned cannot sustain.

17. The writ petition succeeds and is **allowed**.

18. The order dated 21.03.2023 passed by the State Government is **quashed**.

19. A **Writ of Mandamus** is issued to Sampurnanand Sanskrit University, Varanasi to issue a formal recognition letter regarding Uttar Madhyama **on or before 15.12.2023**.

20. As soon as the said recognition letter/order is issued, the petitioners shall file the same before the State Government.

21. The State Government will issue a fresh order regarding grant-in-aid within a period of **one month** from the date of receipt of representation of the petitioners alongwith a copy of the formal recognition letter.

Order Date :- 18.10.2023

Jyotsana