

Court No. - 10

Case :- WRIT - C No. - 26119 of 2023

Petitioner :- C/M Phoolwati Devi Kanya Inter College And
Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Prabhakar Awasthi

Counsel for Respondent :- C.S.C.

Hon'ble Kshitij Shailendra,J.

1. Heard Shri Prabhakar Awasthi, learned counsel for the petitioners, learned Standing Counsel for the respondent nos.1, 2 and 3 and perused the record.

2. Since the role of respondent no.4 is limited as the public representative and a complainant, the Court does not feel necessary to issue notice to him as his complaint has been taken into consideration by the Authorities.

3. The submission of Shri Awasthi, learned counsel for the petitioners is that the District Inspector of Schools, Moradabad by order dated 23.05.2012 granted permission to the petitioners-Institution to run English Medium Classes from Class 6th to 12th in the petitioners-Institution which is recognized under the U.P. Intermediate Education Act, 1921. It is contended that respondent no.4 who happens to be a Member of Legislative Council (M.L.C.) moved certain complaints before the Educational Authorities in relation to the petitioners-Institution and though the M.L.C. had no concern with the institutional affairs, the Authorities entertained the complaints and appointed one Shyama Kumar, Principal of Government Inter College as and Enquiry Officer who submitted an *ex-parte* enquiry report dated 13.07.2023 on the basis whereof,

an *ex-parte* order has been passed on the very next day i.e. 14.07.2023 withdrawing the recognition granted to the English Medium Classes with immediate effect. Submission is that entire proceedings have been held behind the back of the Management of the petitioners and that the petitioners were not put to notice to make their say, even if, certain alleged shortcomings were allegedly noticed by the Inquiry Officer.

4. Learned Standing Counsel submits that recognition granted to run the English Medium Classes was conditional with a clear stipulation that, in case, any concealment of fact comes into picture, or that any complaint is received, the permission would stand automatically withdrawn, however, he could dispute the fact that the order impugned does not refer to any recital, by which, it can be ascertained that the petitioners were afforded any opportunity to make their say in the matter. In relation to respondent no.4, learned Standing Counsel submits that he being Member of Legislative Council and a representative of public has every right to bring to the notice of the concerned Authorities anything which is happening within his area as contrary to law, by which, public is sufferer and, therefore, he had some say in the matter at least in the form of complaint.

5. Having heard learned counsel for the parties, this Court finds that the enquiry report is dated 13.07.2023 and the order impugned has been passed on 14.07.2023. There is nothing on record to demonstrate that the petitioners were ever heard in the alleged enquiry proceedings and, even if, they were put to any notice, which is not before the Court, 24 hours gap in between submission of enquiry report and passing of the order impugned persuades the Court to observe that the order impugned has been passed by committing gross violation of basic principles of natural justice.

6. While this Court proceeded to pass an interim order staying the effect and operation of the order impugned, learned Standing Counsel submits that in the matter of recognition, lawful orders are required to be passed and that the Authorities shall pass fresh order in accordance with law after providing full opportunity of hearing to the petitioners.

7. In view of the above, the writ petition is **allowed** in the following terms:-

(a). The order impugned dated 14.07.2023 passed by the District Inspector of Schools, Moradabad (respondent no.3) is **quashed**;

(b). The respondent no.3 shall issue notice to the petitioners within a period of **four weeks from today** pointing out those shortcomings which have come into notice of the Officer during the course of enquiry;

(c). The notice shall be accompanied by the inquiry report(s);

(d). The petitioners shall submit a response to notice and the contents of the inquiry report(s) within a period of **four weeks thereafter** with sufficient documentary evidence;

(e). The District Inspector of Schools shall pass appropriate orders in accordance with law after providing personal hearing to the Manager of the Committee of the **within six weeks thereafter**;

(f). In case necessity to conduct fresh inspection of the Institution is felt by the District Inspector of Schools, he shall get the inspection done in the presence of Manager/Principal of the Institution.

Order Date :- 11.12.2023

Jyotsana