

Court No. - 10

Case :- WRIT - C No. - 31285 of 2023

Petitioner :- C/M Chhedi Lal Rakam Lal Mahavidyalaya And Another

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

Counsel for Petitioner :- Vinay Kumar Mishra

Counsel for Respondent :- C.S.C., Vivek Kumar Rai

Hon'ble Kshitij Shailendra, J.

1. Heard Shri V.K. Mishra, learned counsel for the petitioners, Shri Jitendra Singh, learned Additional Chief Standing Counsel for the respondent nos.1 and 2 and Shri Ravi Prakash, learned counsel holding brief of Shri Vivek Kumar Rai, learned counsel for respondent nos.3 and 4.

2. By means of this writ petition, two orders have been challenged. By the first order impugned dated 14.06.2023, certain infrastructural shortcomings in the petitioners' Institution were pointed out and based upon two members Inquiry Committee report, its claim for affiliation has been turned down for the Session 2023-2024. By the second order impugned dated 21.07.2023, statutory appeal preferred by the petitioners under Section 37(11) of the U.P. State Universities Act, 1973 (hereinafter referred to as 'the Act, 1973') as amended by the Amendment Act 2014, has been dismissed.

3. Learned counsel for the petitioners submits that, on an earlier occasion, inquiry ended in favour of the petitioners, however, subsequently appointed Inquiry Committee has submitted a wrong report. He further submits that his appeal was bound to be allowed, however, it has been illegally dismissed.

4. Shri Ravi Prakash as well as Shri Jitendra Singh, learned counsel have argued that the petitioners were bound to appear before the State Government to argue the appeal, however, the order impugned states that since nobody was present on behalf of the petitioners, the appeal was dismissed.

5. I find that the State Government's order dated 21.07.2023 is nothing more than an order of dismissal of appeal for want of prosecution.

6. At the same time, learned counsel for the petitioners submits that if certain shortcomings have been pointed out in the report of two members Inquiry Committee, the petitioners are ready to remove these deficiencies and, under such circumstances, State may take a decision on merits as it has power to review the situation as per Section 37(11) of the Act, 1973.

7. Considering the facts and circumstances of the case, the order impugned dated **21.07.2023 is set aside.**

8. The statutory appeal is **restored** before the State Government.

9. The petitioner shall appear before the State Government alongwith a certified copy of this order on **07.12.2023.**

10. It shall be open for the petitioners to remove the deficiencies, if any, as pointed out in the two-members Inquiry Committee report dated 09.06.2023 and submit documentary evidence in this regard before the State Government.

11. Learned counsel for the University is directed to serve a copy of second Inquiry Committee Report dated 09.06.2023 upon learned counsel for the petitioners during the course of the day.

12. The State Government shall decide the appeal **by 15.01.2024** after informing the petitioners the date(s) of hearing.

13. The writ petition is **partly allowed** in the aforesaid terms.

Order Date :- 6.11.2023

Jyotsana