

Court No. - 35

Case :- WRIT - A No. - 16175 of 2023

Petitioner :- C/M Saraswati Shiksha Sadan Intermediate College
And Another

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

Counsel for Petitioner :- Prabhakar Awasthi

Counsel for Respondent :- C.S.C., Seemant Singh

Hon'ble Vikas Budhwar, J.

Heard Shri Prabhakar Awasthi, learned counsel for the writ petitioners who are two in number, Shri Shailendra Singh, learned Standing Counsel who appears for respondent Nos. 1 and 2 and Shri Seemant Singh, learned counsel for the respondent No. 3.

The case of the writ petitioners is that it is a committee of management of Saraswati Shiksha Sadan Intermediate College Marro, Handia in Prayagraj which has an approved scheme of administration and it is governed by the provisions of U.P. Intermediate Education Act, 1921 and the provisions of U.P. Act No. 24 of 1971 stands applicable. As per the writ petitioners, the third respondent, Shri Jeet Lal Saroj who was initially appointed as lecturer (Sanskrit) in Maharana Pratap Inter College Ram Dayal Ganj, District Jaunpur on 08.12.2010 and joined on the post of on 04.01.2011 was transferred to the fourth respondent-institution. One Shri Prem Chandra Bharti who was working as an officiating principal consequent to his retirement on 31.03.2019, the duties were entrusted to one Shri Kripa Shankar Mishra. The writ petitioners claims to have been made the officiating principal since 09.10.2019. As per the writ petitioners, on 13.08.2023, the committee of management of the institution in question proceeded to resolve to suspend the third respondent and a formal order of

suspension was passed on 15.08.2023 and papers were transmitted to the second respondent, District Inspector of Schools, Prayagraj. A chargesheet is stated to have been issued to the third respondent on 29.08.2023, however according to the writ petitioners, on 01.09.2023, the second respondent, District Inspector of Schools, Prayagraj has proceeded to disapprove the suspension of the third respondent.

Questioning the said order, the writ petitioners have filed the present writ petition.

Shri Awasthi, learned counsel for the writ petitioners while assailing the order dated 01.09.2023 passed by the District Inspector of Schools, Prayagraj, second respondent has contended that the order impugned is an ex-parte order as the writ petitioners were not put to notice. He further submits that had the writ petitioners being put to notice, it could have amply demonstrated that there was no occasion to pass the said order disapproving such suspension. According to him, the order in question recites the contentions and the stand taken by the third respondent by virtue of the written submission dated 29.08.2023 which became the basis of passing of the said order. According to him, in case there was any deficiency in the document then the same could have been rectified by the writ petitioners in case they put to notice.

Shri Seemant Singh while countering the submission of the learned counsel for the writ petitioners submits that it is classic class of harassment being sought to be meted to the writ petitioners, particularly, when the writ petitioners have been placed under suspension without there being any resolution of the committee of management and the same has also not been annexed bearing the signatures of the members. He further submits that the suspension

order was though stated to have been passed on 15.08.2023 but it does not contain any recital as to whether any inquiry is contemplated. He further submits that the reliance placed upon the charge sheet dated 29.08.2023 is patently misconceived, particularly, when it is antedated. He, however, submits that there is a categorical finding recorded in the order impugned that the requirement which was to be undertaken at the end of the petitioners, committee of management while sending the entire documents as per the Section 16(G) Chapter-III, Regulation 39 was not fulfilled. He thus submits that the order in question be not interfered with.

Shri Shailendra Singh, learned Standing Counsel has also adopted the arguments of the learned counsel for the third respondent.

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

A pointed query was raised to the learned counsels for the respondent as to whether the writ petitioners were put to notice or not to which the learned counsels for the respondents including Shri Seemant Singh and learned Standing Counsel have made a statement that the order in question does not recite the fact the writ petitioners were put to notice. A question further arises whether it was open for the District Inspector of Schools to rely upon the written submission submitted by the third respondent without putting the writ petitioners to notice so as to confront with them the inputs which were being pressed into service to negate their claim.

To such a submission, the learned counsel for the respondents gracefully submits that the said exercise probably would not be

proper and justified in view of the principles of natural justice. According to them, since they do not propose to file any response, the order in question be set aside, however, with the rider that the District Inspector of Schools shall decide the matter within a time bound manner without granting unnecessary adjournment as the third respondent is not being allowed to function as the officiating principal.

To such a submission, learned counsel for the petitioners has no objection and he gracefully accepts the same.

Considering the submissions of the rival parties as well as stand taken by them, the writ petition is being decided in the following manner:

- a). The order dated 01.09.2023 passed by the second respondent, District Inspector of Schools, Prayagraj is set aside.
- b). The District Inspector of Schools, Prayagraj consequent to the remand shall fix a date in the week commencing on 20.11.2023.

As the writ petitioners and the third respondent are represented to their counsels thus on the date so fixed they shall submit their versions in writing which shall be exchanged on the said date and in case some documents are required, the same shall be furnished. Hearing be done in the week commencing 28.11.2023. Orders be passed by 08.12.2023. The second respondent shall while deciding the issue in question shall bear in mind, (i) the issue relating to the existence of a resolution passed by the committee of management of the writ petitioners (legally elected).

- ii). The compliance of the provisions contained under Section 16 Regulation 39 of Chapter-III of the U.P. Intermediate Education

Act, 1921.

iii). *Prima facie* opinion regarding continuance of the suspension of the third respondent and any other ancillary and incidental issues.

Needless to point out that the writ petition has been allowed on technical ground of being in violation of principles of natural justice. Thus, passing of this order may not be construed to an expression that this Court has gone into the merits of the case.

With the aforesaid observation, the writ petition is **disposed off**.

Order Date :- 8.11.2023

A. Prajapati