

Court No. - 10

Case :- WRIT - C No. - 36580 of 2023

Petitioner :- C/M Shri Mata Prasad Mata Bhikh Inter College And Another

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

Counsel for Petitioner :- Akhilesh Tripathi, Shyam Dhar Gupta

Counsel for Respondent :- CSC

Hon'ble Kshitij Shailendra, J.

1. Heard Shri Akhilesh Tripathi, learned counsel for the petitioners, Shri Jitendra Singh, learned Additional Chief Standing Counsel for respondent nos.1, 2, 3 and 4.

2. Although the impugned action appears to have been taken pursuant to some letter issued by the respondent no.5 who happens to be the President of Bhartiya Janta Party, for the purposes of deciding the case, the Court does not feel his presence necessary and, therefore, notice is not being issued to him.

3. It is contended by learned counsel for the petitioners that the petitioners being Committee of Management of an Intermediate College proceeded to take action against one Dr. Sanjay Kumar Mishra by suspending him and, ultimately, the matter reached to this Court in the form of following two writ petitions:-

(a) Writ A No.15009 of 2023 (Dr. Sanjay Kumar Mishra v. State of U.P. And 3 Others);

(b). Writ A No.15932 of 2023 (C/M Shri Mata Prasad Mata Bhikh Inter College And Another v. State of U.P. And 2 Others).

4. Both the writ petitions were decided by a detailed judgment of this Court dated 22.09.2023 and having observed violation of

principles of natural justice with respect to taking action by the petitioners against Dr. Sanjay Kumar Mishra, this Court remitted the matter to the District Inspector of Schools, Mirzapur in the following terms:-

"33. Since, the writ petitions are being decided on the ground that there had been violation of principles of natural justice and the order does not contain reasons in coming to the conclusion, thus passing of this order may not be construed to be an expression that this Court has adjudicated on the merits of the matter. However, District Inspector of Schools, Mirzapur shall decide the matter strictly in accordance with law after hearing the parties without being obsessed or influenced by any of the observations made herein-above.

34. With the aforesaid observations, the writ petition stands decided. "

5. It is contended by learned counsel for the petitioners that the matter is still pending before the District Inspector of Schools, Mirzapur where the parties are participating. The case of the petitioners is that respondent no.5 being President of the Bhartiya Janta Party issued a letter dated 28.07.2023 to the District Magistrate, Mirzapur raising allegations against the Principal as well as Manager of the Institution with regard to charge of excess fees and when the District Inspector of Schools nominated Principal of the Government Higher Secondary School by letter dated 05.08.2023 as an Inquiry Officer to conduct inquiry, the petitioners appeared before the Inquiry Officer and demanded affidavit of respondent no.5, but nothing happened thereafter and, later on, this Court passed the aforesaid order dated 22.09.2023 remitting the matter to the District Inspector of Schools.

6. The grievance, at this stage, is that the Additional District Magistrate, (Finance and Revenue), Mirzapur has issued the

impugned order/letter dated 06.10.2023 constituting four-member Inquiry Committee comprising of Principal of District Institute of Education and Training (DIET) Mirzapur, Assistant Commissioner (Stamp) Mirzapur, District Basic Education Officer, Mirzapur and Finance and Accounts Officer (Basic Education) Mirzapur to conduct an inquiry against the Principal of the Institution and also with respect to constitution of the Committee of Management of the petitioners on the allegations that relatives have been included therein.

7. The submission is that Administrative Authorities have no jurisdiction to interfere in the managerial affairs of the Committee and, even if, the constitution of Committee is found to be contrary to any law, the U.P. Intermediate Education Act, 1921 contains specific provisions to deal with such situation and, under no circumstances, the District Magistrate or the Additional District Magistrate has any power to take action in the matter. Therefore, the part of the order impugned, by which, action is proposed to be taken against constitution of the petitioners' Committee of Management is said to be illegal and the remaining part, i.e. in relation to the inquiry against the Principal is concerned, it is contended that the matter is already pending before the District Inspector of Schools, Mirzapur pursuant to the aforesaid order dated 22.09.2023 passed in Writ A No.15009 of 2023 and Writ A No.15932 of 2023.

8. Shri Jitendra Singh, learned Additional Chief Standing Counsel submits that since serious allegations of financial embezzlement came in the light, the Authorities have proceeded to take action against the petitioners and proceedings are pending before the District Inspector of Schools, Mirzapur, and the same are required to be completed expeditiously as the Institution is an aided Institution and Government funds cannot

be permitted to be mis-utilized or mis-appropriated. However, Shri Singh does not dispute that parallel inquiry at the level of Additional District Magistrate (Finance and Revenue) was not appropriate in relation to the allegations against the Principal and insofar as the constitution of Committee of Management is concerned, the Educational Authorities are themselves competent to take an action in the matter, as and when the cause of action arises.

9. In view of the above, the writ petition succeeds and is **allowed.**

10. The order dated **06.10.2023** passed by the Additional District Magistrate (Finance and Revenue), Mirzapur is hereby **quashed.**

11. The quashing of the impugned order shall not amount to obstruction in the proceedings which are pending before the District Inspector of Schools, Mirzapur pursuant to the order dated 22.09.2023 passed in Writ A No.15009 of 2023 and Writ A No.15932 of 2023.

Order Date :- 8.11.2023
Jyotsana