

Chief Justice's Court

Case :- SPECIAL APPEAL DEFECTIVE No. - 123 of 2023

Appellant :- State Of U.P. Thru. Its Prin. Secy. Basic Edu. U.P. Civil Sectr. Lko. And Another

Respondent :- C/M Upamanyu Purva Madhyamik Vidyalaya Lko. Thru. Its Manager And Another

Counsel for Appellant :- C.S.C.

Counsel for Respondent :- Prem Shankar

Hon'ble Pritinker Diwaker, Chief Justice

Hon'ble Jaspreet Singh, J.

Heard Sri Anil Pratap Singh, learned Additional Advocate General along with Sri Vivek Kumar Shukla, learned Standing Counsel for the appellants as well as Sri Prem Shankar Bajpai, learned counsel for the respondents.

Under challenge is the judgment and order dated 05.09.2022 passed in Writ-C no. 11262 of 2017 whereby the writ petition of the respondents was allowed and a direction was issued to the State Government to pass appropriate orders extending the benefits of grant-in-aid to the respondent-institution preferably within a period of four months from the date of production of a certified copy of the order.

Primarily, the grounds of challenge by the appellant is two fold:-

(i) It is urged that the respondents did not comply with the requisite conditions, hence, they could not be taken under grant-in-aid and thus the direction given by the Court to provide grant-in-aid to the respondents is bad.

(ii) It is further urged that the direction given by the Court also runs counter to Rule 4(b) framed under the Right to Education Act as applicable to the State of Uttar Pradesh thus, for the aforesaid reasons, the appeal deserves to be allowed.

Sri Bajpai, learned counsel for the respondents submits that the issue has been clearly dealt with by the learned Single Judge who has noticed that the grounds upon which the earlier applications were rejected were flimsy and as such they were interfered with by this Court.

It is also urged that the institution of the respondent was granted

temporary recognition in July, 1977 and permanent recognition on 03.08.1984 and it comes under Category-A level School and it complies with all conditions.

It is also stated that about 600 students take education in the institution and the alleged ground of three other schools running in the vicinity also pales into insignificance for the reason that the institution of the respondent is prior to the said three institutions.

It has also been pointed out that another institution which was similarly situate which was not granted the benefit of grant-in-aid had assailed the said order before this Court at Prayagrah in Writ-C No. 9722 of 2012 which came to be allowed by the learned Single Judge by means of judgment dated 24.08.2018 and the same was also affirmed by a coordinate Bench of this Court at Prayagrah in Special Appeal (D) No. 932 of 2018. The said order was also assailed before the Apex Court but even the Apex Court did not find it worthwhile to interfere.

Thus, in the aforesaid circumstances where similar benefits have been granted to the other institutions, the petitioner-institution was also eligible for the same and thus no error can be found in the order passed by the learned Single Judge.

The Court has heard the learned counsel for the parties and also perused the material on record.

At the outset, it may be noticed that the learned Additional Advocate General Could not dispute the fact that the institution of the respondent has been granted the permanent recognition on 03.08.1984 and has been running the institution prior to the three institutions which are being run in the vicinity.

The learned counsel for the State also could not dispute the fact that earlier when the applications for grant-in-aid were rejected, on each occasion, a different ground was raised by the State which was interfered with by this Court.

The contention that the respondent did not comply with the necessary requirements was also taken note of by the learned Single Judge and categorical findings have been recorded that the respondent-institution fulfilled the same and which could not be disputed.

The learned Single Judge has clearly noticed that the respondent-institution has been running prior to the three institutions being run in the vicinity and the grounds upon which the earlier applications of the petitioner were rejected

were frivolous and the same could not be sustained.

Once it is noticed that the respondent-institution complied with the requisite condition and similarly situated institutions have already been granted the benefit, consequently, it cannot be said that the learned Single Judge has overstepped its jurisdiction or passed an order against the provisions of law to persuade this Court to interfere. The reasoning given by the learned Single Judge does not suffer from any error and consequently this Court is not inclined to interfere. The judgment passed by the learned Single Judge dated 05.09.2022 is affirmed.

Accordingly, the present Special Appeal is dismissed.

Order Date :- 17.7.2023

Asheesh

(Jaspreet Singh,J.) (Pritinker Diwaker,CJ.)