

Court No. - 7

Case :- WRIT - C No. - 8274 of 2023

Petitioner :- C/M, Puneet Inter College, Pratapgarh Thru. Manager, Smt. Purnima Mishra And Another

Respondent :- State Of U.P. Thru. Prin. Secy., Madhyamik Education, Lucknow And Others

Counsel for Petitioner :- Pt. S. Chandra, Ravi Kant Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Abdul Moin, J.

1. Heard learned counsel for the petitioners and learned Standing Counsel.
2. With the consent of learned counsel appearing for the contesting parties, the writ petition is being finally decided.
3. Under challenge are the orders dated 13.09.2023, a copy of which is annexure 2 to the petition, passed by the District Inspector of Schools, District Pratapgarh as well as order the dated 23.08.2023, a copy of which is annexure 1 to the petition, passed by the State Government. By the aforesaid orders the recognition of the petitioner institution has been cancelled.
4. The contention of learned counsel for the petitioners is that at the time the petitioner committee of management applied for recognition it had indicated land gata no. 565 for the purpose of establishment of the institution. As larger chunks of land namely gata nos. 361 Min and 364 were in the name of the president of the committee of management, as such the institution was established on gata no. 361 Min and 364.
5. It is contended that upon an inspection being conducted it was noticed that the institution is running on gata no. 361 Min and 364 and not on gata no. 565 on which the recognition has been granted and consequently by the order impugned the recognition has been cancelled.

6. The contention of learned counsel for the petitioners is that as it was for the betterment of the institution that the institution was established on larger chunks of land, consequently this aspect of the matter should have been considered by the competent authority at the time of inspection and while proceeding to cancel the recognition of the petitioner institution.

7. It is also contended that both the aforesaid chunks of land namely 361Min and 364 are now in the name of the institution and as such even if there was some initial defect the same now stands cured with the land being recorded in the name of the institution which aspect of the matter has not been considered by the authorities while passing the orders impugned.

8. On the other hand, Shri Nitin Mathur and Shri Vivek Shukla, learned Additional Chief Standing Counsels appearing on behalf of the respondents state on the basis of instructions that upon an inspection being conducted by the competent authority it was noticed that despite the committee of management having applied for grant of recognition of the institution by indicating the land bearing gata no. 565 for the purpose of establishment of institution, yet in an inspection the institution was found established on gata no. 361Min and 364. Thus, the very basis on which the recognition had been granted goes in as much as it is an incurable defect which cannot be cured as the building cannot be shifted from one gata to another and thus there is no error and infirmity in the orders impugned.

9. Having heard learned counsel for the parties and having perused the record it emerges that admittedly the petitioners had applied for grant of recognition for the institution by indicating establishment of the institution on gata no. 565. On account of circumstances which were found to be more beneficial for the

institution itself, the institution was constructed over gata no. 361Min and 364. Upon an inspection being conducted, as the institution was found running on gata which was not even indicated per which recognition was granted i.e. gata no. 565 the competent authority has proceeded to pass the orders impugned whereby the recognition of the institution has been cancelled.

10. The contention of learned counsel for the petitioners is that it was for betterment of the institution that the institution was established on a larger chunks of land. It has also been contended that these are curable defects which should have been considered by the competent authority while conducting the inspection.

11. Accordingly, considering the aforesaid as well as the provisions of Section 16D(2) of the U.P. Intermediate Education Act, 1921, the writ petition is **disposed of** leaving it open to the petitioners to raise their grievance before the respondent no. 2 i.e. the Director of Education, Madhyamik, Uttar Pradesh within a period of two weeks from today.

12. In case such grievance is raised the respondent no. 2 shall proceed to consider the same and pass a reasoned and speaking order in accordance with law and relevant rules.

13. It is further provided that the orders impugned dated 23.08.2023 and 13.09.2023 would be subject to the orders which are passed by the respondent no. 2 or by any other competent authority upon the grievance of the petitioners.

Order Date :- 10.10.2023
J.K. Dinkar