

Court No. - 7

Case :- WRIT - C No. - 10841 of 2023

Petitioner :- Daulatpur Mahavidyalaya, Barabanki Thru.
Manager/President, Dr. Satyawar Shukla

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

Counsel for Petitioner :- Kalika Prasad Pandey

Counsel for Respondent :- C.S.C., Akhilesh Kumar Srivastava

Hon'ble Abdul Moin, J.

1. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the petitioner, learned Standing counsel appearing for the respondent no.1 and Shri Akhilesh Kumar Srivastava, learned counsel appearing for the respondent nos.2 to 4.
3. With the consent of learned counsel appearing for the contesting parties, the writ petition is being finally decided.
4. The instant petition has been filed praying for the following main reliefs:

"(i) Issue a writ, order or direction in the nature of mandamus commanding the respondent nos.2 to 4 to extend the affiliation of college for the B.Sc. courses.

(ii) Issue a writ, order or direction in the nature of mandamus commanding the respondent nos.2 to 4 to verify the Unique Identity Number (UIN) of remaining students of B.Sc. 1st year (1st Semester) for the session 2023-24.

(iii) Issue a writ, order or direction in the nature of mandamus commanding the respondent nos.2 to 4 to unlock the website of University for filling the examination form to the students of B.Sc. 1st year (1st semester) for the session 2023-24."
5. There is a consensus at Bar that the facts of the case have already been indicated by this Court in its order dated

14.12.2023. For the sake of convenience, the order dated 14.12.2023 is reproduced below:

"1. Supplementary affidavit filed today in Court is taken on record.

2. Heard learned counsel for the petitioner, learned Standing Counsel as well as Sri Akhilesh Kumar Srivastava, learned counsel for the respondent University.

3. Instant petition has been filed praying for a mandamus commanding the respondents no.2 to 4 to extend the affiliation of college for B.Sc. courses, to verify the Unique Identity Number of remaining students of B.Sc. first year (first semester) for the session 2023-2024, and to unlock the website of the University for filling in examination forms of the students of B.Sc. first year (first semester) for the session 2023-2024.

4. The contention of learned counsel for the petitioner is that the petitioner-Institution had been granted a temporary affiliation by the respondent-University vide order dated 04.05.2018, a copy of which is Annexure-2 to the writ petition, for running B.Sc. course w.e.f. 01.07.2018 for a period of three years.

5. It is contended that after lapse of the said affiliation, the petitioner through its applications dated 28.07.2021 and 10.06.2022, copies of which are Annexures 3 and 4 to the writ petition, applied for extension of the affiliation for the session 2021-2022 and 2022-2023. It is orally stated that the petitioner-Institution admitted the students for B.Sc. courses for the sessions 2021-2022 and 2022-2023 also in the anticipation that the affiliation would be granted by the respondent-University.

6. The controversy appears to have arisen for the current session i.e. 2023-2024 when the respondents have not granted the affiliation till date despite the petitioner having applied for affiliation vide its application dated 26.02.2023, a copy of which is Annexure-6 to the writ petition, and the petitioner having deposited the renewal fee and hence the prayer as aforesaid.

7. On the other hand, the argument of Sri Akhilesh Kumar Srivastava, learned counsel for the respondent-University, is that the Institution had given an affidavit dated 01.06.2023, a copy of which is Annexure SA-2 to the supplementary affidavit, per which it had been indicated that the Institution does not

require any affiliation for the B.Sc. course and as such there cannot be any occasion for grant of affiliation to the petitioner-Institution for B.Sc. course keeping in view the aforesaid affidavit.

8. The oral contention of learned counsel for the petitioner is that despite earlier the respondent University not having granted the extension of the affiliation subsequent to 2021 yet the University has conducted the examination for the students admitted in B.Sc. course of the Institution for the subsequent years consequently for this year also the same analogy be followed and the students as admitted in B.Sc. course be admitted to appear in the examination for the session 2023-2024.

9. However, as there is no specific averment to the said effect in the petition and in the supplementary affidavit which has been filed by the petitioner, let a supplementary affidavit in this regard be filed by the petitioner specifically indicating as to whether the examinations for the students admitted in B.Sc. course subsequent to the affiliation not having been extended for the sessions 2021-2022 and 2022-2023, the students were permitted to appear in the examination by the respondent-University.

10. Meanwhile, Sri Akhilesh Kumar Srivastava, learned counsel for the respondent-University, would also seek specific instructions as to whether the students for B.Sc. for the sessions 2021-2022 and 2022-2023 were permitted to appear in the examination without there being any affiliation granted to the Institution and if so, the circumstances in which such permission was granted by the respondent -University.

11. As it has been stated that the examination is scheduled to start from 18.12.2023, as such, list this case on 16.12.2023 as fresh."

6. Learned counsel for the petitioner states on the basis of averments contained in the supplementary affidavit filed today, more particularly in paragraphs 5 & 7, that for the students who were admitted in the B.Sc. first year for the session 2021-22 and 2022-23, the University had conducted their examinations and had also issued mark sheets to them. He contends that despite the affidavit being given by the petitioner Institution that they do not intend to conduct B.Sc. course henceforth as

per the affidavit dated 01.06.2023, a copy of which is annexure SA-2 to the supplementary affidavit dated 14.12.2023, subsequently the Institution has given an application dated 20.06.2023, a copy of which is annexure 8 to the petition, expressing its intention for conducting the B.Sc. course for the session 2023-24. He contends that the said application is still pending for consideration at the end of the University and no such decision has been taken in this regard.

7. It is also contended that as the examination for B.Sc. is scheduled to start from 18.12.2023, the career of the students should not be spoiled, as such the respondent University is required to pass an order pertaining to the affiliation of the petitioner Institution for the B.Sc. course expeditiously.

8. On the other hand, Shri Akhilesh Kumar Srivastava, learned counsel appearing for respondent nos.2 to 4, on the basis of instructions with regard to conduct of examinations for the students who were admitted in the Session 2021-22 and 2022-23 i.e. for the period in which there was no affiliation of the petitioner Institution, states that it was in the interest of the students who had been admitted by the Institution without there being any affiliation, that a decision was taken by the University for conduct of the examination. He further contends that when the said decision has been taken in the interest of the Institution consequently, the same cannot be considered to be license which has been granted to the petitioner Institution for admitting students to the B.Sc. without there being any affiliation. He further contends that despite the instant petition having been filed praying for an affiliation for the B.Sc. course for the session 2023-24 also, the previous conduct of the University which had been taken in the interest of the Institution may not be taken as if an affiliation has been granted

for the said years.

9. Having heard the learned counsel for the parties and having perused the records, what emerges is that admittedly the petitioner Institution was only having temporary affiliation vide order dated 04.05.2018, a copy of which is annexure 2 to the petition, for a period of 3 years w.e.f. 01.07.2018. Admittedly, the said affiliation lapsed on 30.06.2021. Admittedly, the affiliation was not extended by the University subsequent thereto. Admittedly, the petitioner Institution admitted students in B.Sc. course without there been any affiliation for the session 2021-22 and 2022-23. The respondent University, in the interest of the students who had been admitted by the petitioner Institution without there been any affiliation, conducted the examination. The said decision, though taken in the interest of the students by the University, appears to have been taken as a blanket license by the petitioner Institution who continued to admit the students in B.Sc. course for the Session 2023-24 also and now, the instant petition has been filed praying for an affiliation to be granted for the B.Sc. course for the session 2023-24 also and for conduct of the examination.

10. The aforesaid conduct of the petitioner Institution for admitting students in B.Sc. course without there being any affiliation cannot be countenanced in any manner. It is an illegal act which cannot be condoned in any view of the matter. However, considering that the respondent University had taken a decision earlier in the interest of the student who were admitted in B.Sc. course without there being any affiliation for the session 2021-22 and 2022-23 and even in the current year, the petitioner Institution has admitted students in the session 2023-24 for B.Sc. course, therefore in the interest of students, it is provided that the respondent University, as per the procedure

adopted earlier, may conduct an examination for the said students also. The grant of affiliation for the Session 2023-24 may also be considered by the respondent University in accordance with law preferably within a period of three days from today considering that the examinations are scheduled to start from 18.12.2023.

11. The aforesaid order has been passed in the interest of the students, however, the same would not preclude the respondent University from taking strict action in accordance with law including penal action, if any, against the petitioner Institution for having admitted students for the session 2021-22, 2022-23 and 2023-24 without there being any affiliation.

12. With the aforesaid direction, the writ petition is **disposed of**.

13. Shri Akhilesh Kumar Srivastava, learned counsel appearing for the respondent nos.2 & 4 shall inform about this order to the respondent University without waiting for the certified copy.

Order Date :- 16.12.2023
S. Shivhare