Court No. - 7
Case :- WRIT - C No. - 11017 of 2023
Petitioner :- Vimla Devi Mahila Mahavidyalaya,Sultanpur Thru. President College Committee,Shushil Kumar Dubey
Respondent :- State Of U.P. Thru. Addl. Chief Secy. (Higher Education), Lucknow And Others
Counsel for Petitioner :- Durgesh Mishra
Counsel for Respondent :- C.S.C.,Akhilesh Kumar Srivastava

Hon'ble Abdul Moin,J.

Heard learned counsel for the petitioner, learned Standing counsel appearing on behalf of the respondent no. 1 and Sri Akhilesh Kumar Srivastava, learned counsel appearing on behalf of the respondents no. 2 & 3.

Instant writ petition has been filed praying for the following main reliefs:-

"(i) Issue a writ, order or direction in the nature of Mandamus commanding the respondents particularly respondents no. 2 i.e Dr. Ram Manohar Lohia Avadh University, Ayodhya through its Vice Chancellor to grant affiliation for the academic session 2023-24, as the petitioner has been granted provisional affiliation and renewed from time to time i.e on 04.05.2018 and 30.05.2019 for undergraduate and postgraduate courses (contained as Annexure No. 1,) in the interest of justice.

(ii) Issue a writ, order or direction in the nature of Mandamus commanding the respondents particularly respondents no. 2 i.e Dr. Ram Manohar Lohia Avadh University, Ayodhya through its Vice Chancellor to allow the students of petitioner's college to participate in the examination scheduled for the session 2023-2014 in the interest of justice."

At the very outset, learned counsel for the petitioner contends that inadvertently in the eighth line of prayer no. I of the writ petition, the word "Postgraduate" has wrongly been typed and prays that the prayer be only read with regard to under graduate course.

The aforesaid statement of Sri Durgesh Mishra, learned counsel for the petitioner is recorded.

Instant petition is again a petition whereby the petitioner-Institution has admitted the students for the academic session 2023-2024 in its graduate course without any affiliation from the University.

Instant writ petition has been filed praying for a direction to the University to grant affiliation for the academic session 2023-2024 as the petitioner-Institution had earlier been granted provisional affiliation for the academic courses and further to allow the students of the petitioner's college to participate in the examination scheduled for the session 2023-2024.

There is consensus at Bar that the matter is primarily covered by the judgment of this Court passed in **Writ-C No. 10841 of 2023 Inre; Daulatpur**

Mahavidyalaya, Barabanki Vs. State of U.P and Ors decided on 16.12.2023.

In the judgment of **Daulatpur Mahavidyalaya (supra)** the point in issue was of students having been admitted by the Institution for the B.Sc course for the session 2021-2022, 2022-2023 & 2023-24 without there being any affiliation.

This Court vide judgment and order dated 16.12.2023 has held as under:-

"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."

Considering the aforesaid more particularly when the students have been admitted by the petitioner's institution without there being any affiliation and in order to safeguard the interest of the students it is provided that the respondent-University may conduct an examination for the said students admitted by the petitioner's institution. The grant of affiliation for the session 2023-2024 be also considered by the respondent-University in accordance with law preferably within a week from today.

As the aforesaid order has been passed only in the interest of students 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 2023-2024 and earlier

also. It would also be open for the students of the petitioner's institution to initiate action in accordance with law against the petitioner-Institution for having marred their education career and spoilt their time in the Institution having granted the admission without having any affiliation.

Shri Akhilesh Kumar Srivastava, learned counsel appearing for the respondent nos.2 & 3 shall inform about this order to the respondent University without waiting for the certified copy of this order.

It is also provided that the institution shall co-operate in sending of details of its students to the University and the details would be sent today itself.

Order Date :- 18.12.2023
Pachhere/-

Digitally signed by :-
SATYENDRA SINGH PACHHERE
High Court of Judicature at Allahabad,
Lucknow Bench