

Neutral Citation No. - 2025:AHC:79697

Reserved on 11.02.2025
Delivered on 15.05.2025

Court No. - 32

Case :- WRIT - C No. - 59729 of 2006

Petitioner :- C/M Social Welfare Prathmik Vidyalaya And
Another

Respondent :- State of U.P. and Others

Counsel for Petitioner :- Rakesh Bahadur,Dhirendra Kumar
Srivastav

Counsel for Respondent :- C.S.C.

Hon'ble Saral Srivastava,J.

1. Heard Sri Rakesh Bahadur, learned counsel for the petitioner and Sri Jitendra Singh, learned Additional Chief Standing Counsel for the respondents.

2. The petitioner by means of the present writ petition has assailed the order dated 10.10.2006 passed by the respondent no.1-Principal Secretary, Social Welfare Department U.P., Lucknow rejecting the claim of the petitioner for releasing the recurring grant, and has further prayed for a writ of mandamus directing the respondents to release the recurring grant already sanctioned in favour of the petitioner.

3. The case of the petitioner is that there is a Society in the name of 'Samaj Kalyan Society Kalpi, Jalaun' (hereinafter referred to as the 'Society'), registered under the Societies Registration Act, 1860 and has been renewed from time to time. The Society established a School in the name of 'Social Welfare Prathmik Vidhyalaya Kalpi, Jalaun at Orai (hereinafter

referred to as the 'Vidhyalaya'). The Vidhyalaya was granted 'temporary recognition' in the year 1980 by the Education Authority.

4. According to the petitioner, the permanent recognition was accorded to the Vidhyalaya by the Education Authorities by order dated **23.04.1986**. It is stated that between the year 1980-83, the Vidhyalaya was getting 'recurring grant' from the State Government. It has been further mentioned that the Vidhyalaya was brought under the 'Recurring Grant List by the order of the Education Authority dated **31.03.1994**.

5. According to the petitioner, the name of the petitioner's Vidhyalaya appeared at serial No.16 in the list of the School enclosed with the Government Order dated **31.03.1994**. It is alleged that one local M.L.A. namely, Sreeram Pal who was the then Social Welfare Minister was interested in certain illegal gratification, which the Manager of the Vidhyalaya refused. According to the petitioner that because of this reason, the grant was not released and a report was called for, and the Deputy Director, Social Welfare, Jhansi Division, Jhansi vide letter dated **17.03.1998** to the Director, Social Welfare, U.P. Lucknow gave a detailed report stating that the Vidhyalaya is recognised one and there was no dispute between the Committee of Management. Accordingly, he recommended by the report dated **17.03.1998** to the Director, Social Welfare, respondent no.2 to release the grant to the Vidhyalaya.

6. Despite recommendation of Deputy Director of Social Welfare, when the grant was not released, the petitioner approached this Court by filing **Writ-C No.8744 of 1999** which was disposed of by this Court by judgement and order dated

24.10.2005 directing the respondents to pass an appropriate order according to law considering the report dated **17.03.1998** after recording the reasons preferably within a period of two months from the date of production of a certified copy of the order.

7. Pursuant to the judgement and order dated **24.10.2005** passed by this Court, respondent no.1 Principal Secretary passed an order rejecting the claim of the petitioner on the ground that the petitioner was not granted 'permanent recognition' and the petitioner has interpolated the order of 'permanent recognition' and the petitioner did not fulfil the condition of the Government Order dated **31.03.1994** that the Vidhyalaya was having temporary/permanent recognition.

8. The impugned order further considered the report dated **17.03.1998** and did not rely upon the same on the ground that the report has been submitted by taking shield of missing original records whereas the fraud had been committed by the Vidhyalaya, therefore, by the said report, an attempt had been made to benefit the Vidhyalaya.

9. A counter affidavit has been filed by the respondents contending *inter alia* that in the original letter dated **23.04.1986** issued by the office of District Basic Education Officer, Jalaun at Orai, there is no word of 'permanent recognition' written on the said letter nor any 'permanent recognition' had been granted in favour of the petitioner Vidhyalaya, and only 'temporary recognition' had been granted for the period from **01.07.1985 to 30.06.1986**. It is further stated that District Basic Education Officer had issued letter dated **04.11.2006** to the District Social Welfare Officer, Jalaun at Orai intimating him

that only 'temporary recognition' had been granted to the petitioner-Vidhyalaya for the period from **01.07.1985 to 30.06.1986**. It is further stated that by the letter dated **04.09.1998** issued by the Basic Education Officer Jalaun at Orai, initial recognition to the Vidhyalaya had been stated to be illegal.

10. Further case in the counter affidavit is that the Vidhyalaya was provided 'Non Recurring Grant' from the year 1980 to 1983, but this fact did not come in the knowledge of the authorities. The respondents further pleaded that the petitioner had made forgery by making false endorsement/impression in the word 'Temporary' by replacing the word 'Permanent' to get the benefit of 'permanent recognition'. This fact was detected when a complaint was made and an enquiry was conducted, in which it was found that the word 'Temporary' was interpolated by the word 'Permanent' at the level of the Committee of Management to get the status of the Vidhyalaya changed and to derive the benefit as a 'permanent recognised Vidhyalaya' in place of 'temporary' status of recognition. It is further stated that petitioner no.2 who was the Manager of the Vidhyalaya was solely responsible for this act.

11. It is further stated that the Deputy Director of Social Welfare, Jhansi Region, Jhansi issued a letter dated **17.03.1998** to the petitioner Vidyalaya and a letter dated **14.02.2006** had also been issued by the Social Welfare Officer Jhansi at Orai supporting the petitioner Vidhyalaya. Accordingly, the State Government after considering the matter had taken action against the erring Officials responsible for the same.

12. The respondents further stated that since the petitioner Vidhyalaya failed to fulfil the conditions and norms laid in the Government Order dated **31.03.1994**, therefore, the petitioner Vidhyalaya could not be given the status of recognition either 'temporary' or 'permanent'.

13. Challenging the aforesaid order, learned counsel for the petitioner has contended that this Court had issued a direction in its judgement dated **24.10.2005** to the authorities to decide the claim of the petitioner considering the report dated **17.03.1998**, but the said report has not been correctly appreciated by the respondent no.1 while rejecting the claim of the petitioner. It is submitted that the finding returned in the impugned order is perverse and against the record, therefore, in such view of the fact, the impugned order cannot be sustained in law.

14. Per contra, learned Additional Chief Standing Counsel would contend that the petitioner Vidhyalaya was never granted 'permanent recognition' and the petitioner by making fraudulent interpolation in the letter dated **23.04.1986** had replaced the word 'Temporary' by the word 'Permanent'. He contends that it is not the heading of the letter that would determine the nature of the letter, rather the whole content has to be seen in concluding whether letter grants 'permanent recognition' or 'temporary recognition'. It is contended that it is specifically written in the letter dated **23.04.1986** that the recognition is only for **01.07.1985 to 30.06.1986**.

15. Learned Additional Chief Standing Counsel has further invited the attention of the Court to the photocopy of the original letter dated **23.04.1986** in which no endorsement about

‘permanent recognition’ is made nor there is any noting at the bottom of the letter, therefore, he contends that the letter dated **23.04.1986** enclosed as Annexure-4 to the writ petition is a forged and manipulated document, and since the petitioner’s Vidhyalaya does not fulfil the mandatory condition of possessing ‘temporary’ or ‘permanent’ recognition, therefore, the petitioner’s Vidhyalaya could not be granted ‘Recurring Grant’.

16. He further submits that the respondent no.1 while deciding the claim of the petitioner has considered the report /letter dated **17.03.1998** of the Deputy Director of Education, Social Welfare and did not rely upon the same on the ground that the report dated **17.03.1998** had been submitted by ignoring the original records and the fraud committed by the petitioner’s Vidhyalaya, and the report had been submitted with an intention to give benefit to the Vidhyalaya. Consequently, the authority while passing the impugned order rightly did not place reliance upon the said report.

17. I have considered the rival submissions advanced by the learned counsel for the parties and perused the record.

18. The detailed facts have already been delineated above, therefore, they are not being reiterated to unnecessarily burden the judgement.

19. The petitioner had earlier approached this Court by filing **Writ-C No.8744 of 1999** which was disposed off by this Court by order dated 24.10.2005 directing the respondents to consider the claim of the petitioner in accordance with law considering

the report dated **17.03.1998**. The relevant extract of the order is reproduced herein below:-

“In view of the aforesaid fact, I am of the opinion that the present writ petition can be disposed of finally with the direction to the respondent nos. 1 and 2 to pass appropriate detailed order according to law considering the report dated 17.03.1998 after recording the reasons preferably within a period of two months from the date of production of the certified copy of this order.

With these observations, the writ petition is disposed of.

There shall be no order as to costs.”

20. The reliance has been placed by the learned counsel for the petitioner on the letter dated **23.04.1986**, which according to the petitioner is the letter granting ‘permanent recognition’ to the petitioner’s Vidhyalaya. The letter dated **23.04.1986** enclosed as Annexure-4 to the writ petition is reproduced herein-below:

“ कार्यालय जिला बेसिक शिक्षा अधिकारी, जालौन स्थान उरई।

पत्रांक 85/86 दिनांक- 23-4-86

प्रबन्धक

1- सोशल वेलफेयर प्रा० वि० कालपी -- ---स्थाई मान्यता एवं सम्बद्धता

2- चित्रगुप्त प्राईमरी वि० कालपी --- अस्थाई मान्यता

3- जी०पी०वी० प्रा० वि० उरई - अस्थाई मान्यता

विषय- प्राईमरी विद्यालय की मान्यता के सम्बन्ध में।

महोदय,

उपर्युक्त विषय के संबंध में निवेदन है कि जिला मान्यता समिति ने अपनी बैठक दिनांक 19.4.86 में आपके विद्यालय को प्राईमरी स्तर की मान्यता शिक्षा सत्र 85-86 हेतु (1-7-85 से 30-6-86 तक) प्रदान कर दिया है।

उक्त के फलस्वरूप निम्न प्रतिबन्धों के साथ मान्यता निर्गत की जा रही है

1. विद्यालय में किसी भी नियुक्त अध्यापकों एवं कर्मचारियों का अनुमोदन विधिवतता से इस कार्यालय से प्राप्त करना आवश्यक होगा।
2. कोई भी कक्षाये स्वतंत्र रूप से आप न बन्द कर सकते हैं और न खोल सकते हैं इस हेतु इस कार्यालय की पूर्व अनुमति आवश्यक होगी।
3. मानक से अधिक छात्र संख्या रखने हेतु इस कार्यालय से पूर्व स्वीकृति आवश्यक होगी।
4. विभागीय नियमों एवं निर्देशों को कड़ाई से पालन करना होगा। यदि निरीक्षण के समय अथवा किसी समय यह जानकारी होती है कि आप विभागीय नियमों एवं निर्देशों का पालन नहीं कर रहे हैं तो आपकी मान्यता किसी भी समय समाप्त किया जाने का अधिकारी सुरक्षित है।
5. विद्यालय में विभाग द्वारा मान्य पाठ्यक्रमों की पुस्तकें ही पढाई जावे अमान्य पुस्तकें न पढाई जावे।
6. यदि आप द्वारा मान्यता प्राप्त करने हेतु मान्यता नियमों के शर्तों के आलोक में किसी तथ्यों को छिपाकर कोई आख्या अथवा प्रस्तुतीकरण की गई होगी और उसके किसी भी समय जानकारी होने पर यह मान्यता निरस्त करने का अधिकार इस कार्यालय को होगा।

उक्त प्रतिबन्ध क्रमांक पर लागू नहीं है।

कृपया इस पत्र की प्राप्ति स्वीकार करें।"

21. At this stage, it would be apt to reproduce the letter dated **23.04.1986 enclosed** as Annexure-CA1 to the counter affidavit.

“ कार्यालय जिला बेसिक शिक्षा अधिकारी, जालौन स्थान उरई।

पत्रांक

85/86

दिनांक- 23-4-86

प्रबन्धक

1- सोशल वेलफेयर प्रा० वि० कालपी

2- चित्रगुप्त प्राईमरी वि० कालपी

3- जी०पी०वी० प्रा० वि० उरई

विषय- प्राईमरी विद्यालय की मान्यता के सम्बन्ध में।

महोदय,

उपर्युक्त विषय के संबंध में निवेदन है कि जिला मान्यता समिति ने अपनी बैठक दिनांक 19.4.86 में आपके विद्यालय को प्राईमरी स्तर की मान्यता शिक्षा सत्र 85-86 हेतु (1-7-85 से 30-6-86 तक) प्रदान कर दिया है।

उक्त के फलस्वरूप निम्न प्रतिबन्धों के साथ मान्यता निर्गत की जा रही है

1. विद्यालय में किसी भी नियुक्त अध्यापकों एवं कर्मचारियों का अनुमोदन विधिवतता से इस कार्यालय से प्राप्त करना आवश्यक होगा।

2. कोई भी कक्षाये स्वतंत्र रूप से आप न बन्द कर सकते हैं और न खोल सकते हैं इस हेतु इस कार्यालय की पूर्व अनुमति आवश्यक होगी।
 3. मानक से अधिक छात्र संख्या रखने हेतु इस कार्यालय से पूर्व स्वीकृति आवश्यक होगी।
 4. विभागीय नियमों एवं निर्देशों को कड़ाई से पालन करना होगा। यदि निरीक्षण के समय अथवा किसी समय यह जानकारी होती है कि आप विभागीय नियमों एवं निर्देशों का पालन नहीं कर रहे हैं तो आपकी मान्यता किसी भी समय समाप्त किया जाने का अधिकारी सुरक्षित है।
 5. विद्यालय में विभाग द्वारा मान्य पाठ्यक्रमों की पुस्तकें ही पढाई जावे अमान्य पुस्तकें न पढाई जावे।
 6. यदि आप द्वारा मान्यता प्राप्त करने हेतु मान्यता नियमों के शर्तों के आलोक में किसी तथ्यों को छिपाकर कोई आख्या अथवा प्रस्तुतीकरण की गई होगी और उसके किसी भी समय जानकारी होने पर यह मान्यता निरस्त करने का अधिकार इस कार्यालय को होगा।
- कृपया इस पत्र की प्राप्ति स्वीकार करें।"

22. A comparison between the two letters i.e. letter dated **23.04.1986** enclosed as Annexure-4 to the writ petition, extracted above, and letter dated **23.04.1986** enclosed as Annexure-CA1 extracted above, it is evident that though in the letter dated **23.04.1986** against the name of the Vidhyalaya at Serial No.1 on the top of the letter dated **23.04.1986** enclosed as Annexure-4 to the writ petition, the word 'स्थाई मान्यता एवं सम्बद्धता' and after condition no.6 in the said letter a noting is made 'उक्त प्रतिबन्ध क्रमांक पर लागू नहीं है। कृपया इस पत्र की प्राप्ति स्वीकार करें।', whereas neither the aforesid word 'स्थाई मान्यता एवं सम्बद्धता' nor noting extracted above is present on the photocopy, which is annexed as annexure CA-1, which according to the respondents is original of letter dated **23.04.1986**.

23. It is pertinent to note that in the Annexure-4 to the writ petition, it is written that the District Recognition Committee in its meeting dated 19.04.1986 had decided to grant recognition

at primary level for the Session 1985-86 (01.07.1985 to 30.06.1986). The same content is also written in the letter dated **23.04.1986** as Annexure-CA1 with the counter affidavit.

24. It is settled in law that to appreciate the nature of a document, the entire contents of the letter is to be appreciated and not one line which even does not form part of the letter. In the letter dated **23.04.1986** enclosed as Annexure-4 to the writ petition, it is stated that the Vidhyalaya is granted 'temporary recognition' for the Session 1985-86 (01.07.1985 to 30.06.1986). None of the conditions stipulated in the letter dated 23.04.1986, enclosed as Annexure-4 to the writ petition, reveals that the recognition granted to the petitioner's Vidhyalaya is a 'permanent recognition' and merely because on the top of the letter against the name of the petitioner's Vidhyalaya 'स्थायी मान्यता एवं सम्बद्धता' is written that does not mean that the said letter grants the 'permanent recognition' to the petitioner's Vidhyalaya.

25. Further, from the comparison of two letters dated 23.04.1986 enclosed along with the writ petition as Annexure-4 and enclosed as Annexure-CA1 with the counter affidavit respectively, it is evident that certain additions had been made in the letter dated **23.04.1986** enclosed as Annexure-4 to the writ petition, whereas these additions do not form part of the letter dated **23.04.1986** enclosed as Annexure-CA1 to the counter affidavit.

26. Since, there is a serious dispute about the genuinity of the letter dated **23.04.1986** enclosed as Annexure-4 to the writ petition, and the issue involved in the present case is a question of fact which cannot be determined by this Court in exercise of

its power under Article 226 of the Constitution of India, the remedy of the petitioner is to approach the Civil Court by filing a suit seeking decree of declaration in respect to the letter dated **23.04.1986** enclosed as Annexure-4 to the writ petition that it is a genuine and original letter dated **23.04.1986** issued by the office of District Basic Education Officer, Jalaun at Orai.

27. Since, the petitioner has approached this Court, therefore, the burden is upon the petitioner to produce relevant record to establish that the petitioner's Vidhyalaya was granted 'permanent recognition'. There is no order on record issued by the competent authority revealing that the petitioner's Vidhyalaya has been granted 'permanent recognition'. Even the letter dated **23.04.1986** (Annexure-4 to the writ petition) on which reliance has been placed by the petitioner states that the District Recognition Committee in its meeting dated **19.04.1986** had granted recognition to the Vidhyalaya for the Session 1985-86 for the period **01.07.1985 to 30.06.1986**. The said recitation in the letter dated **23.04.1986** unequivocally establishes that this letter cannot be termed to be letter of 'permanent recognition' and the recognition was only for one year.

28. The order dated 31.03.1994 providing for recurring grant-in-aid stipulates a condition that to get the Recurring Grant, the Vidhyalaya should possess 'temporary' or 'permanent' recognition from the office of District Basis Education Officer/Zila Parishad.

29. Since, nothing has been brought on record by the petitioner to indicate that the petitioner's Vidhyalaya had been granted recognition or the recognition was continuing on the

date of issuing the order dated **31.03.1994**, therefore, it is evident from the record that the petitioner's Vidhyalaya did not fulfil the condition of the Government Order dated **31.03.1994** for getting the benefit of Recurring Grant, and thus, it is evident from the record that the petitioner's Vidhyalaya has wrongly been inducted in the list enclosed with the Government Order dated **31.03.1994** for Recurring Grant.

30. The authority while rejecting the report/letter dated **17.03.1998** has given elaborate reason in paragraph nos.9 & 10 of the order dated 10.10.2008, which is reproduced herein-below:-

“ 9- उक्त तथ्यों से यह स्पष्ट है कि याची विद्यालय के पक्ष में उप निदेशक समाज कल्याण झॉसी द्वारा प्रस्तुत रिपोर्ट दिनांक 17-3-98 जिला बेसिक शिक्षा अधिकारी द्वारा प्रतिवेदित जालसाजी विषयक अभिलेखों एवं पत्रों की अनदेखी करते हुए मूल अभिलेखों को गायब कर गायब अभिलेखों की आड लेते हुए याची संस्था द्वारा की गयी जालसाजी तथा आवर्तक अनुदान हेतु 10 वर्ष की मान्यता अवधि संबंधी अनिवार्य शर्त को निष्प्रभावी करने तथा याची संस्था को लाभ पहुंचाये जाने का कुत्सित प्रयास है।

अतः सम्यक विचारोपरान्त शासन द्वारा निर्णय लिया गया है कि याची विद्यालय को समाज कल्याण विभाग द्वारा अनुदानित सूची से निरस्त करते हुए याची संस्था का नाम सूची से हटा दिया जाय। समाज कल्याण विभाग को धोखा देकर जालसाजी के आधार पर गलत अभिलेख प्रस्तुत कर अनुदान प्राप्त किया जाने हेतु की गयी धोखाधड़ी एवं जालसाजी संबंधी दुष्कृत्य हेतु संस्था के तत्कालीन प्रबन्धक श्री विजय गोपाल श्रीवास्तव के विरुद्ध जिला समाज कल्याण अधिकारी उरई जालौन द्वारा प्रथम सूचना रिपोर्ट दर्ज कराकर दण्डात्मक कार्यवाही करायी जाय। संस्था को लाभ पहुंचाये जाने के लिये अनियमितता में लिप्त दोषी अधिकारियों/कर्मचारियों यथा- श्री बलदेव त्रिपाठी, तत्कालीन उप निदेशक समाज कल्याण विभाग झॉसी आदि के विरुद्ध दण्डात्मक कार्यवाही निदेशक, समाज कल्याण द्वारा सुनिश्चित करायी जाय।

10- मा० उच्च न्यायालय द्वारा याचिका संख्या- 8744/99 में पारित आदेश दिनांक 24.10.2005 के अनुपालन में प्रश्नगत प्रकरण उक्तानुसार निस्तारित किया जाता है।”

31. Perusal of the report/letter dated **17.03.1998** reveals that it has not considered the original document dated **23.04.1986** nor it has considered the original record, and by stating that these documents have been misplaced from the record and

there is a letter of District Basic Education Officer dated **13.12.1995** stating that the petitioner's Vidhyalaya has been granted 'permanent recognition' has submitted the report. In the opinion of the Court, the said report has rightly been rejected by the authority below for the reasons recorded in paragraph nos.9 & 10 of the order extracted above. The Authority Below has categorically recorded a finding in paragraph nos.9 & 10 of the report dated 17.03.1998 that the certificate of 'permanent recognition' was issued without considering the original record. The authority also appreciated that the petitioner-Vidhyalaya did not fulfil the condition of the Government Order dated 31.03.1994, yet it gave a report in favour of the petitioner with an intention to give the benefit to the petitioner Vidhyalay.

32. The responent no.1 has categorically recorded in paragraph no.9 of the order that the petitioner has committed fraud by manipulating the record and the aforesaid finding being a finding of fact is not liable to be interfered with, more so when this Court has already reproduced the letter dated 23.04.1986 (Annexure-4 to the petition) and the letter dated 23.04.1986 (Annexure-CA1 to the counter affidavit) which reveals that they are not the same. In such view of the fact, a case of fraud seems to have been made out against the petitioner, and the question as to whether the letter dated 23.04.1986 (Annexure-4 to the writ petition) is a fraudulent document and some interpolation had been made in the said document by the petitioner is a question of fact which cannot be determined by this Court in exercise of power under Article 226 of the Constitution of India.

33. Therefore, for the reasons given above, the writ petition lacks merit, and is accordingly **dismissed** without any order as to costs.

Order Date :-15.05.2025

NS