

Court No. - 7

Case :- WRIT - A No. - 4769 of 2025

Petitioner :- Committee Of Management Janta Inter College
Ramkola District Kushinagar

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Ramesh Chandra Dwivedi

Counsel for Respondent :- C.S.C.,Rahul Jain

Hon'ble Vikram D. Chauhan,J.

1. Heard Sri Ramesh Chandra Dwivedi, learned counsel for the petitioner, Sri Rahul Jain, learned counsel for respondent no. 3 and learned Standing Counsel for the respondent-State.

2. Learned counsel for the petitioner submits that private respondent no. 3 was placed under suspension by resolution of the Committee of Management dated 13.10.2024 and the papers were submitted by the Committee of Management to the District Inspector of Schools, Kushinagar on 21.10.2024, annexing charge sheet as well as evidence and other documents. Learned counsel for the petitioner further submits that previously the order of suspension was disapproved by District Inspector of Schools, Kushinagar by order dated 4.12.2024. The aforesaid disapproval was challenged before this Court by the Committee of Management in Writ-A No. 206 of 2025 and by order dated 10.1.2025 specific finding was recorded for granting opportunity of hearing to the employee prior to suspension. Paragraph no. 7 of the aforesaid judgment dated 10.1.2025 is quoted herein below :-

"7. In view of above, Court is of considered opinion that suspension order was disapproved on ground that respondent-3 was not heard prior to order of suspension, though there is no legal basis of such findings and on other hand, without hearing the parties, impugned order was passed i.e. a contrary approach was adopted."

3. Learned counsel for the petitioner further submits that after

remand of the matter by order dated 10.1.2025, the District Inspector of Schools has again passed the order disapproving the suspension order on the ground that Regulation 39 of Chapter III of the Intermediate Education Act, 1921 has not been complied with and further on the ground that suspension of respondent no. 3 on the charges are not serious enough in nature which would warrant suspension. Further, it has been stated that prior to suspension of respondent no. 3 no opportunity of hearing was granted.

4. Learned counsel for the petitioner further submits that insofar as the ground with regard to opportunity of hearing to the employee is concerned, the same stood finalized by the findings recorded in paragraph no. 7 of the judgment dated 10.1.2025 passed by this Court in Writ-A No. 206 of 2025. Learned counsel for the petitioner further submits that so far as Regulation 39 of the Intermediate Education Act, 1921 is concerned, the same is directory in nature and the same would have been complied with if any notice has been issued by the District Inspector of Schools to the petitioner to submit any other documents. He further submits that neither in the impugned order it has been specified which document has not been filed by the petitioner under Regulation 39 of the Intermediate Education Act, 1921.

5. Learned counsel for the petitioner further submits that by letter dated 21.10.2024 filed along with the supplementary affidavit twenty five documents along with the charge sheet has been filed and therefore, it was imperative on the part of the District Inspector of Schools, Kushinagar who had not specifically pointed out and demanded the documents which were not filed by the petitioner in terms of Regulation 39 of the Intermediate Education Act, 1921 and directly rejected the claim of the petitioner, which is not in consonance with law as the Regulation is not having overriding effect to Section 16G of the Intermediate Education Act, 1921. Learned counsel for the petitioner further submits that charges against the employee are serious in nature so as to warrant punishment. Learned counsel for the petitioner further submits that on perusal of the charge sheet (which is annexed at page no. 50 of the paper book) would go to show that there was serious allegation by one Nand Lal Pal of alleged misbehaviour by the private respondent no. 3. Learned counsel for the petitioner further submits that aforesaid charge sheet also states that accounts book were being asked by the Committee of Management from the private respondent no. 3, however, the same was not provided.

6. Learned counsel for the petitioner further submits that without

considering the discussion of charges and evidence submitted in support of the charges, the District Inspector of Schools, Kushinagar in a very cursory manner has held that the charges do not warrant suspension. Learned counsel for the petitioner further submits that while approving or disapproving the suspension order, the District Inspector of Schools is required to go into the merits of the charges, however, he has to prima facie record finding whether there is any evidence in support of the charges and whether the charges warrant any suspension or charges would result any major penalty. He further submits that such a matter was not decided by the District Inspector of Schools, Kushinagar while passing the impugned order.

7. Sri Rahul Jain, learned counsel for private respondent no. 3 submits that petitioner has not complied Regulation 39 of Chapter III of the Intermediate Education Act, 1921 and further submits that complaint made by one teacher Sri Nand Lal Pal of the Institution is a manufactured document as the aforesaid teacher is to be given the charge of officiating Principal after suspension of respondent no. 3 and only for the purpose of giving charge to Sri Nand Lal Pal, the present suspension order has been passed against respondent no. 3. Learned counsel for respondent no. 3 further submits that once order of disapproval is passed, then in terms of Division Bench judgment of this Court in **Tej Narain Singh Vs. State of U.P., 2008(6) All. LJ 22** it is submitted that stay order may amount to reviving the order which has lost its efficacy. Learned counsel for respondent no. 3 further relied upon Division Bench judgment of this Court in **Chandra Bhushan Misra Vs. District Inspector of Schools, Deoria and others, [(1995) 1 UPLBEC 460]** to submit that when order of suspension is not approved within sixty days, then suspension loses its efficacy and employee would be entitled for reinstatement.

8. Learned counsel for the petitioner further submits that in the present case, the District Inspector of Schools, Kushinagar while disapproving the suspension order has neither considered merits of the charges against respondent no. 3 nor has considered the case of private respondent no. 3 that suspension order has been passed for ulterior motive. The suspension order has been passed in non-compliance of Regulation 39 of Chapter III of the Intermediate Education Act, 1921.

9. Learned counsel for respondent no. 3 and learned Standing Counsel for respondent-State could not demonstrate from the record that prior passing of the aforesaid finding whether any opportunity of hearing was given to the petitioner to file the

required documents and even the impugned order of disapproval does not state that as to which document has not been submitted by the Committee of Management although as per the Committee of Management the documents have been submitted along with the order dated 21.10.2024.

10. It is to be seen that in respect of giving opportunity of hearing to the petitioner prior to suspension, this Court has specifically made finding in paragraph no. 7 of the order dated 10.1.2025 passed in Writ-A No. 206 of 2025. Even otherwise, the respondents could not show that there is any provision under law in which prior opportunity of hearing is required to be granted prior to suspension.

11. It is further to be seen that District Inspector of Schools, Kushinagar has recorded finding that allegation against the private respondent no. 3 are not serious in nature. The District Inspector of Schools has neither averted any finding to the merits of the charges nor the evidence produced by the Management in support of the impugned order. It was imperative on the part of the District Inspector of Schools to record specific finding by considering the evidence when specifically in the charge sheet it has been stated that there is allegation of misbehaviour by one teacher against private respondent no. 3 to which the private respondent no. 3 has stated that the same is manufactured in order to give the post of officiating Principal to the teacher Nand Lal Pal. Such issues ought to have been considered in light of the charges levelled by the Committee of Management and the evidence in support thereof. It is true that merits of the evidence led by the Management is not required to be examined, however, prima facie finding is required in view of the charges and evidence produced and whether suspension is warranted of an employee.

12. At this stage, learned counsel for petitioner, learned counsel for private respondent no. 3 and learned Standing Counsel for the respondent-State agree that impugned order dated 27.2.2025 passed by District Inspector of Schools, Kushinagar - respondent no. 2 may be set aside and the matter may be remanded back to District Inspector of Schools, Kushinagar for decision afresh.

13. In view of aforesaid, the impugned order dated 27.2.2025 passed by District Inspector of Schools, Kushinagar - respondent no. 2 is set aside and the District Inspector of Schools, Kushinagar is directed to consider suspension order as well as charges and evidence produced and find out whether there is any prima facie evidence against respondent no. 3 warranting suspension and shall

also consider whether the charges in view of allegations made by respondent no. 3 are serious enough to warrant suspension. The aforesaid exercise would be completed within a period of one month from today.

14. Accordingly, the writ petition is allowed.

Order Date :- 12.5.2025

VMA