

Court No. - 52

Case :- WRIT - A No. - 26923 of 2009

Petitioner :- Anendra Singh

Respondent :- State of U.P. and Others

Counsel for Petitioner :- Praveen Kumar Giri, Anil Kumar
Srivastava, Rohit Kumar, Shailendra Singh

Counsel for Respondent :- C.S.C., Lokesh Kumar Dwivedi

Hon'ble Mrs. Manju Rani Chauhan, J.

1. Heard learned counsel for the petitioner, learned counsel for respondent no.3 (B.S.A.) as well as learned Standing Counsel for the State-respondents.
2. The present petition has been filed with the prayer to direct the respondents to appoint/regularize the petitioner either on the post of Clerk or on the post of Peon in the Institution in question and a further prayer to direct the respondents to pay the salary of the petitioner from the date of grant in aid of the Institution in question.
3. Learned counsel for the petitioner submits that the petitioner was appointed as a Clerk in the Institution, namely, Vishwanath Vidyalaya (Purva Madhyamik), Mundera Bazar, Allahabad (Junior High School), which has been recognized in the year 1974-75. He further submits that the petitioner was initially appointed on 25.08.1982 by the Manager of the said Vidyalaya. The petitioner was working since 25.08.1982 but no salary was paid to him. The petitioner has not been given approval by the Management and whereas some other persons, who had not worked for even a single day, were wrongly given approval.
4. An application was submitted by the petitioner before the Education Minister, who in turn directed the Divisional Commissioner, Allahabad Division, Allahabad to inquire into the matter and submit a report. In compliance of the aforesaid direction, an inquiry Committee was constituted and after the inquiry, a report was submitted before the

Divisional Commissioner, Allahabad Division, Allahabad as well as to the State Government.

5. In the meantime, a dispute arose between the two rival Committee of Management of the Institution and during the pendency of the aforesaid dispute, the aforesaid Institution came into grant-in-aid list in March 1997. The petitioner and other staff members submitted applications before the District Basic Education Officer to pay their salary according to the provisions of grant-in-aid. As nothing was done, the petitioner approached this Court by means of filing Civil Misc. Writ Petition No.12134 of 1999 (Anendra Singh vs. Basic Shiksha Adhikari, Distt. Allahabad and 2 Others), which was disposed of vide order dated 24.03.1999, with a direction to the authorities concerned to decide the representation of the petitioner.

6. In compliance of the aforesaid order, several representations were given by the petitioner before District Basic Education Officer, but nothing was done.

7. In the meantime, the other staff, who were appointed by another Manager, approached this Court by means of filing Writ Petition No.11771 of 1999 and the Hon'ble Court was pleased to pass the order dated 29.07.1999, directing the Additional Director of Education, Basic, Uttar Pradesh, Allahabad, to pass orders after hearing the petitioner. Accordingly, the Additional Director of Education, Basic, U.P., Allahabad, rejected the representation of the petitioner on the ground that no approval had been given by the District Basic Education Officer. An inquiry was conducted by the Director of Education (Basic), wherein it has been mentioned about a report dated 28.8.1999, which speaks about name of 9 persons being approved by the District Basic Education Officer by his letter dated 31.07.1990. The name of the petitioner also finds place there at Sr. No.6, wherein his appointment on the post of Peon was approved. Thus, it is clear that the petitioner was

working on the post of Peon at the relevant point of time. A confusion has been created by mentioning in the aforesaid report that the petitioner was working on the post of Peon but was claiming to be a Clerk in the Institution but not being clarified as to whether the petitioner was working as Peon or Clerk, therefore, it cannot be said from the aforesaid that the petitioner was not working in the Institution. The claims of other staff, who were appointed by another Manager came to be rejected by order dated 18.12.1999.

8. In the meantime, an audit was conducted in the Institution wherein during inspection the petitioner was found working as Clerk but the then Manager Sri Harish Chandra Agrawal made forged approval of nine persons who were his well-wishers.

9. As the claim of the petitioner was not considered despite several representations, he along with the audit report as well as the inquiry conducted by the Additional Director of Education, (Basic) U.P. approached the concerned authority for approval of his appointment.

10. Despite passage of nine years when no decision was taken on the representation regarding appointment/regularization of the petitioner either on the post of Clerk or on the post of Peon in the Institution, was not considered, hence, he filed the present writ petition.

11. Learned counsel for the petitioner submits that the petitioner was duly appointed and as per the audit report as well as the inquiry conducted by Additional Director of Education, (Basic) U.P. the petitioner was found working in the Institution, therefore, he was entitled to be appointed and regularised on the said post in the Institution in question. From the date of his appointment, he has been working continuously on the post of Clerk without any complaint.

12. The aforesaid Institution came into grant-in-aid in March 1997 and the petitioner and other staff members have moved applications before District Basic Education Officer to pay their salary according to

the relevant provisions after coming of the Institution in grant-in-aid list.

13. The first Manager, Shri Harish Chandra Agrawal, demanded huge money from the petitioner and other employees, who were working in the Institution for regularizing their services and also refused payment as the Institution had come in the grant-in-aid list and the petitioner was working since the very beginning of his appointment. Therefore, the Manager, who was given money by the other persons, prepared forged documents and their names were sent to the concerned authority for approval. The petitioner as per direction of the Hon'ble Court gave several representations, but nothing was done.

14. Placing the appointment letter dated 25.08.1982 and 26.08.1983, in the supplementary affidavit filed by the petitioner, learned counsel for the petitioner submits that the petitioner was initially appointed as Clerk and since then he has discharged his duties regularly. On 04.06.1987, the District Basic Education Officer granted approval to the petitioner on the post of Clerk and one Paramhans Singh on the post of Paricharak. After the aforesaid Institution, wherein the petitioner was working on the post of Clerk, came into grant-in-aid on March 1997, a dispute arose between the two rival Committee of Management in the Institution i.e. between Bharat Singh and Harish Chandra Agrawal wherein Harish Chandra Agrawal was elected as Manager. The petitioner was not given approval by the management while he was working continuously and the person who was not working as Clerk in the Institution was wrongly given approval on the post of Clerk though he did not work for a single day.

15. On 07.10.2002, Assistant Account Officer of Shiksha Nideshak, U.P. at Allahabad, wrote a letter to the Manager Sri Harish Chandra Agrawal for collection of evidence for the inquiry to be conducted regarding appointment of teaching as well as non teaching staff in the

Institution. The petitioner has also complained about the forgery as committed by the then Manager who granted approval to the persons who were not working in the Institution, on which an inquiry was conducted by Director of Education, (Madhyamik), U.P. at Allahabad and a report was submitted on 31.03.2003 before the authorities concerned. Some writ petition being Writ Petition No.2227 of 2000 was filed by the employees, who were six in numbers, who had been wrongly granted approval of the appointment by the then Manager. The aforesaid case was dismissed by order dated 27.04.2016. Another writ petition being Writ Petition No.2750 of 2000 (Santosh Kumar vs. State of U.P. and Others) was also filed, which was also dismissed by order dated 27.4.2016. Another petition was filed by Bharat Singh and Sayed Maqsood Hasan being Writ Petition No.11771 of 1991, which was disposed of with a direction to the Additional Director (Basic) Education to decide the factual controversy regarding appointment of the petitioner as well as the other employees who have alleged to have been appointed by Harish Chandra Agrawal who claim to be the Manager of the Institution. One Vijay Khare also filed Writ Petition No.39500 of 1998, which was dismissed by order dated 22.10.2019. A Writ Petition No.12845 of 2000 filed by Jamuna Prasad, was also dismissed by order dated 19.01.2018, whereas the writ petition filed by the petitioner being Writ Petition No.12134 of 1999 (Anendra Singh vs. State of U.P. and Others) was disposed of with a direction to the authorities concerned to consider the representation of the petitioner regarding regularization of his service.

16. From the aforesaid, it is clear that though the claim of the petitioner was pending but the claim of the employees who had been wrongly appointed by the then Manager had already been rejected and the writ petition challenging the order was also dismissed.

17. In view of the aforesaid, the petitioner is entitled for regularization and payment of salary.

18. While answering the submission as made by the learned counsel for the petitioner, learned Standing Counsel submits that the aforesaid Institution namely, Vishwanath Vidyalaya (Purva Madhyamik), Mundera Bazar, Allahabad (Junior High School) has been taken into grant-in-aid list in the year 1997, after which there was managerial dispute and the employees of the Institution separated in two parts, one party remained with Manager Late Sri Harish Chandra Agrawal and another party remained with Manager Sri Bharat Singh. Under these circumstances, where there was controversy as to whether the employees were really working in the Institution or not, Writ Petition No.11771 of 1999 (Saiyad Maqsood Hasan Vs. State of UP and Others), was filed, wherein order dated 29.07.1999 was passed directing the Additional Director of Education (Basic) to pass appropriate orders. In compliance of the aforesaid order, the Additional Director of Education, (Basic), Directorate of Education, Allahabad, passed the following order, which reads as under:-

“याची श्री सैय्यद मकसूद हसन द्वारा दिये प्रत्यावेदन दिनांक 12.08.99, 21.08.99 तथा 28.08. 99 तथा श्री जयकरन सिंह द्वारा दिनांक 20.08.99 को उपलब्ध कराये गये प्रत्यावेदन के साथ संलग्न सूची में कोई भी अध्यापक जिला बेसिक शिक्षा अधिकारी द्वारा अनुमोदित नहीं है। इसलिए श्री सैय्यद मकसूद हसन जो त्रिभाषा में उर्दू अध्यापक के रूप में मान्य है के अतिरिक्त किसी का वेतन राजकोष से अनुमन्य नहीं है। एतद् श्री सैय्यद मकसूद हसन व श्री जयकरन सिंह का प्रत्यावेदन निरस्त/अस्वीकार करते हुए निस्तारित किया जाता है।”

19. The aforesaid fact is also evident from the audit report as well as the order passed by the Additional Director Education (Basic).

20. Accordingly, the appointment of only Sayad Maqsood Hasan was found to be legal and the claims of other persons were rejected as they

were never appointed in the Institution, accordingly, Sayed Maqsood Hasan was being paid salary till his retirement.

21. Learned Standing Counsel appearing on behalf of the respondent nos.2 and 3, submits that the petitioner was never appointed in the Institution and the approval letter dated 10.04.2023 alleged to have been issued by District Basic Education Officer, has been produced after 14 years to set up his claim. It has been further submitted that at the time of alleged appointment of the petitioner, U.P. Recognised Basic Schools (Junior High Schools) (Recruitment & Conditions of Service of Ministerial Staff and Group 'D' Employees) Rules 1984 was effective. Accordingly, no approval was required for appointment on the post of Clerk after his selection. The approval letter has been brought on record to support his appointment, although no approval was required hence to set up wrong claim approval letter has been obtained after 14 years of alleged appointment.

22. He further submits that in case the petitioner is alleged to have been appointed by the then Manager of the Institution in the year 1982 and his appointment is said to have been approved in the year 1987, there was no such requirement for him to get approval from the Manager. Thus, the claim as set up by the petitioner is just to wash the eyes of this Court.

23. It is further submitted that in none of the records as the inquiry report, the audit report or the report as submitted by the Additional Director, name of the petitioner has been mentioned as a Clerk working in the Institution.

24. He further submits that writ petitions filed by other persons who claimed their appointment in the said Institution whether the petitioner or the other persons who have been appointed by the alleged Manager Sri Harish Chandra Agrawal, has been entertained and the writ petitions filed by other persons have been dismissed on the ground that no

approved appointments were made in the Institution. A detailed order has been passed in this regard in Writ Petition No.2227 of 2000 (Deepak Kumar and Another Vs. State of UP and Others) and the Special Appeal No.360 of 2016 filed against the aforesaid order has also been dismissed by the Division Bench of this Court.

25. Learned Standing Counsel further submits that the attendance register which has been placed along with the present writ petition, is forged and fabricated document, as there is no name of any employee who is getting salary. He further submits that after permanent recognition being given to the Institution in question the teaching and non teaching employees have not been appointed in terms of Rule 9 of the Rules of 1975. Apart from this, the provisions specified under the Rules 7, 8, 9 and 10 of U.P. Recognized Basic Schools (Junior Schools) Recruitment & Condition of Services of Teachers) Rules, 1978, have not been followed, thus, the petitioner is not entitled for the relief as prayed in the writ petition.

26. As already detailed by learned counsel for the petitioner several writ petitions were filed by the persons claiming to be appointed in the said Institution, which were dismissed as no approved appointments were made in the Institution. The petitioner did not file any writ petition at that time. A detailed order was passed in Writ Petition No.2227 of 2000 which was decided by order dated 27.03.2000, accordingly salaries of Kamala Rani (Paricharak), Om Prakash- Assistant Teacher, Mamta Bansal- Assistant Teacher, Deepak Kumar- Assistant Teacher, Geeta Gupta- Assistant Teacher, Sayed Aftab Haider- Assistant Teacher and Kailash Kumari Srivastava- Assistant Teacher was directed to be deposited in the office of Registrar of this Hon'ble Court. Pursuant to the Contempt Application No.1486 of 2001 was filed by the aforesaid persons. As the writ petitions came to be dismissed, therefore, salaries of teaching and non-teaching staff of the

Institution was stopped, however, against the order passed in Writ Petition No.2227 of 2000, Special Appeal No.306 of 2016 has been filed before Division Bench of this Court, which was also dismissed as the appointment made in the Institution was not as per the Rules and were not approved. Civil Appeal No.3925 of 2018 was filed before Hon'ble Apex Court by Syed Aftab Haider wherein in compliance of order dated 17.04.2018 salary was paid to Sri Syed Aftab Haider, who has now retired and is getting pension.

27. Learned Standing Counsel further submits that after grant of permanent recognition to the Institution in question the appointment of teaching and non teaching staff was to be done in terms of the Rule 9 of Rules 1975 and the provisions specified in Rule 7, 8, 9 and 10 of Rules of 1978 have to be followed. The petitioner has not been able to prove his case showing that any procedure as prescribed under relevant Rules has been followed for his appointment. From the very beginning, it has been found that the appointment of the petitioner has not been done in the said Institution on any post of a Clerk or a Peon.

28. Learned counsel for respondent no.4 has also submits that the petitioner has never been appointed in the Institution and has never worked in the Institution. His claim has also been rejected by Additional Director, Basic, Education by 18.12.1999 which has not been challenged at any point of time, therefore, has attained finality, leaving no claim of the petitioner. In the audit report also, the name of the petitioner is shown on Page-115 as Peon. The report does not mention about any valid appointment of the petitioner. Even otherwise the prayer to appoint or regularise the petitioner either on the post of Clerk or on the post of Peon in the aforesaid Institution is misconceived.

29. Learned counsel for the respondent no.4 also submits that the appointment letter as has been placed on record is a forged document as

it is not signed or issued by the Management. He further submits that Additional Director Basic Education in his order dated 18.12.1999 has clearly stated that by order dated 25.09.1999 passed by BSA, Allahabad. All valid appointments were made by Harish Chandra Agrawal who was continuously working as Manager since establishment of the Institution and Bharat Singh was never recognized as Manager of the Institution. The order dated 25.09.1999 passed by BSA, Allahabad has never been challenged, therefore, has attained finality. All documents regarding appointment are manipulated. There is no evidence on record to show that the petitioner was ever appointed in the Institution.

30. He further submits that the claim of all the employees has been rejected by order dated 18.12.1999 passed by the competent authority except that of Sayed Maqsood Hasan. He further submits that Harish Chandra Agarwal was the Manager of the Institution from the establishment of the Institution till his death on 12.01.2009 and thereafter the deponent was elected as Manager and he is recognized Manager till now. He further submits that Vijay Khare and Jamuna Prasad are not employees of the Institution and their claim are totally bogus. The petitioner is stranger to the Institution and he was never appointed in the Institution, he has never worked in the Institution and he has not been paid any salary from the Institution as such the writ petition is misconceived and liable to be dismissed.

31. In view of the above discussion, learned counsel for the petitioner has not been able to show from the records that petitioner was ever appointed, he managing himself doing anything and the order passed by rejecting the claim of the petitioner has not been challenged till date. The petition is devoid of merits and is **dismissed**.

Order Date:15.07.2025

Rahul.