

Neutral Citation No. - 2025:AHC:38943

Reserved on 17.03.2025

Delivered on 20.03.2025

Court No. - 6

Case :- WRIT - A No. - 32026 of 2017

Petitioner :- Sachchidanand Varma and others

Respondent :- State of U.P. and others

Counsel for Petitioner :- Shantanu Khare, Sr. Advocate

Counsel for Respondent :- C.S.C., Sanjay Chaturvedi, Santosh Kumar Yadav

Hon'ble Saurabh Shyam Shamshery, J.

1. Petitioners in present writ petition are Headmaster, Assistant Teachers, a Clerk and a Class-IV employees of Rajju Vidyalay, Kadsar Kuti, Chandadih, Ballia and have approached this Court with a prayer that said institution be brought in the list of institutions receiving grant-in-aid from State Government.

2. On basis of documents available on record, petitioners have set up a case that State Government initiated a process to grant aid to about one thousand Junior High Schools and for that Director of Education (Basic) issued an Advertisement dated 09.09.2006 whereby informations were sought from Schools to brought them into the of grant-in-aid after due verification and if they fall within the conditions prescribed in advertisement.

3. It is further case of petitioners that Committee of Management of School concerned submitted the application alongwith requisite documents (application and documents so filed are not on record). However, after scrutiny the Additional Director of Education (Basic), Azamgarh communicated the Manager of concerned School vide letter dated 03.11.2006 pointing out certain shortcomings in the application and sought information with regard to approval of appointments of four Teachers, namely, Deenanath Yadav, Pramod Kumar Tiwari, Ajay Tripathi and Ram Prasad Verma with a condition that in case such documents are not provided till 13.11.2006 their application would not proceed further.

4. According to petitioners, Manager of Committee of Management by communication dated 11.11.2006 send the information, however, from bare perusal of said communication, which is annexed as Annexure-9 to the writ petition, information with regard to approval of appointment of above referred Assistant Teachers were not provided.

5. In aforesaid circumstances, application of Respondent-School was not proceeded further and a list of Schools brought into grant-in-aid was published wherein name of Respondent-School was not included.

6. Committee of Management of Respondent-School filed a writ petition being Writ-A No. 70710 of 2006 with a prayer that Institution's name be included in the list of institutions receiving grant-in-aid.

7. It appears that during pendency of aforesaid writ petition, Government of Uttar Pradesh issued an order dated 27.12.2006 whereby an opportunity was granted to such institutions, who were not able to provide clarifications to objections or not able to file application. Accordingly a fresh Advertisement dated 06.01.2007 was issued inviting applications from Schools which would fall within aforesaid circumstances and last date to submit application was fixed as 20.01.2007. It is further case of petitioners that Committee of Management convened a meeting on 16.01.2007 and minutes were drawn that names of employees, whose appointments were not approved, will be dropped from list and names of employees, only whose appointments were approved, be included in list. Subsequently, second advertisement issued was revoked vide Government Order dated 16.01.2008. Before it, since a fresh advertisement was issued, the writ petition filed by Committee of Management was dismissed as withdrawn vide order dated 09.02.2007.

8. On basis of record, it appears that Committee of Management has accepted the fate and does not proceed further except an information provided under Right to Information Act on 01.09.2008 whereby status of objection so far as Schools including the Respondent-School was informed that approval could be granted only to those employees whose appointments

were approved, however, Committee of Management has not pressed their prayer further and not approached this Court.

9. In aforesaid circumstances, after much delay petitioners, who claimed that their appointments are approved and are working in Respondent-School, have filed this writ petition seeking above referred relief.

10. At the outset, an objection was made that since Committee of Management has not approached this Court, therefore, petitioners being it's employees, have no locus to file this writ petition seeking relief as sought.

11. Sri Ashok Khare, learned Senior Advocate assisted by Sri Kauntey Singh, learned counsel appearing for petitioners, submitted that petitioners are affected persons since benefit of providing grant-in-aid would be given to them, therefore, they have a locus to approach this Court.

12. Learned Senior Advocate further submitted that Committee of Management has already dropped the names on which objections were made on ground that their appointments were not approved and send the list of employees only whose appointments were approved, therefore, objection was clarified, however, when subsequent advertisement was withdrawn, it appears that their claim was not proceeded further.

13. Learned Senior Advocate further submitted that the reason assigned in order mentioning shortcomings were baseless that list of teachers or employees could be approved, whose appointments were duly approved excluding employees whose appointments were not approved. Learned Senior Advocate referred a judgment passed by Supreme Court in **State of Uttar Pradesh and others vs. Committee of Management, Mata Tapeshwari Saraswati Vidya Mandir and others (2010)1 SCC 639** and the judgments passed by this Court in **State of U.P. and another vs. U.P. Basic Shikshak Mahasangh (Special Appeal No. 272 of 2006), decided on 23.03.2007; Committee of Management, Shivdei Balika Junior High School, Bisalpur, Pilibhit and another vs. State of U.P. and others (Writ Petition No. 59940 of 2010) decided on 27.08.2013; Committee of Management Shri Madan**

Mohan Das Sri Krishna Gooshala Vidyalaya vs. State of U.P. and others (Writ-C No. 502 of 2007), decided on 17.10.2011, and, U.P. Basic Shikshak Maha Sangh vs. State of U.P. and others (Writ Petition No. 5383 (MS) of 2007), decided on 23.02.2010 that in similar circumstances directions were passed to consider the claim of other Schools.

14. Per contra, Sri R.K. Tripathi, learned Additional Chief Standing Counsel appearing for State-Respondents, has opposed the above submissions and submitted that petitioners have no locus. The objection made by State-Respondents were factually correct and admitted by Committee of Management later on. The list of employees was not correctly forwarded and since subsequently second advertisement was withdrawn, therefore, claim of petitioner was not proceeded and prayer may not be allowed.

15. Heard learned counsel for parties and perused the material available on record.

16. The first issue is, whether petitioners have locus to file this writ petition or not.

17. Admittedly Committee of Management has withdrawn its writ petition way back in the year 2007 and thereafter they have not approached this Court even after the employees have filed this writ petition. Still considering that the effected parties are employees, therefore, they can agitate their claim as such the objection to locus is rejected.

18. The Committee of Management has not submitted correct information alongwith application filed in pursuance of first advertisement and query was found to be correct that appointments of four teachers named in list were not approved and, therefore, the reply made by Committee of Management was not sufficient to consider their application, as such there is no error when name of concerned School was not included in the list of Schools which were brought into list of grant-in-aid and challenge to it at the behest of Committee of Management was later on withdrawn.

19. The second attempt on behalf of Committee of Management was to submit a list of employees only whose appointments were approved, i.e., a new case was set up, therefore, they were not entitled to even submit the application since they have already filed their reply to the query which was rightly found not sufficient, as such they could not be prejudiced when subsequent advertisement was withdrawn.

20. In aforesaid circumstances, the argument of learned Senior Advocate appearing for petitioners that the application of School concerned remained pending and reliance upon reply under Right to Information Act would not be sufficient since from very beginning the Committee of Management has not submitted correct information and has tried to cover up by submitting a vague reply to the query which was later on found to be true since Committee of Management itself dropped the names of employees, whose appointments were not approved and were part of first list. Therefore, Committee of Management has missed its chance since it has not submitted correct information and, therefore, any claim on behalf of employees has no legal basis as they would not cure the defect or error committed by the Committee of Management and this Court cannot pass a mandamus that their case be considered.

21. The facts of present case are distinguishable from the facts of judgments cited by learned Senior Advocate where no opportunity was granted to submit reply to the objections, however, in the present case objections were not satisfactorily replied and Committee of Management has included the names of those employees whose appointments was not even approved. Such error cannot be cured at this stage. Accordingly claim of petitioners has no legal basis.

22. The writ petition is accordingly dismissed.

Order Date :- 20.03.2025

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