

2025:AHC:34282
Reserved - **28/02/2025**
Delivered - **10/03/2025**

Court No. - 10

1. Case :- WRIT - A No. - 16586 of 2011

**Petitioner :- C/M Sarvjanik Kisan Uchchatar Madhyamik
Vidyalaya And Others**

Respondent :- State of U.P. and Others

Counsel for Petitioner :- Ashok Khare,Siddharth Khare

**Counsel for Respondent :- Nisheeth Yadav,Shatrughn Yadav
with**

2. Case :- WRIT - A No. - 10488 of 2013

Petitioner :- Ram Chandra And Another

Respondent :- State Of U.P.Thru Secretary And Ors.

Counsel for Petitioner :- Nisheeth Yadav,Yogish Kumar Saxena

**Counsel for Respondent :- C.S.C.
with**

3. Case :- WRIT - A No. - 24443 of 2013

Petitioner :- Ashrafi Lal And 2 Ors.

Respondent :- State Of U.P.And 4 Ors.

Counsel for Petitioner :- Nikhil Kumar

**Counsel for Respondent :- C.S.C.
with**

4. Case :- WRIT - A No. - 25933 of 2013

Petitioner :- Kamlesh Babu And Anr.

Respondent :- State Of U.P.And 4 Ors.

Counsel for Petitioner :- Nikhil Kumar

**Counsel for Respondent :- C.S.C.
with**

5. Case :- WRIT - A No. - 28044 of 2013

Petitioner :- Chhotey Lal Rajpoot

Respondent :- State Of U.P.And 4 Ors.

Counsel for Petitioner :- Ashok Khare,Siddharth Khare

**Counsel for Respondent :- C.S.C.
with**

6. Case :- WRIT - A No. - 29811 of 2013

Petitioner :- Sarvajeet Ram Tamta

Respondent :- State Of U.P.And 4 Ors.

Counsel for Petitioner :- Nikhil Kumar

Counsel for Respondent :- C.S.C.

with

7. Case :- WRIT - A No. - 36289 of 2011

Petitioner :- Malikhan Singh

Respondent :- State of U.P. and Others

Counsel for Petitioner :- Ashok Khare,Siddharth Khare

Counsel for Respondent :- C.S.C.

with

8. Case :- WRIT - A No. - 36290 of 2011

Petitioner :- Jai Prakash Rajpoot

Respondent :- State of U.P. and Others

Counsel for Petitioner :- Ashok Khare,Siddharth Khare

Counsel for Respondent :- C.S.C.

with

9. Case :- WRIT - A No. - 36291 of 2011

Petitioner :- Chhotey Lal Rajpoot

Respondent :- State of U.P. and Others

Counsel for Petitioner :- Ashok Khare,Siddharth Khare

Counsel for Respondent :- C.S.C.

with

10. Case :- WRIT - A No. - 36292 of 2011

Petitioner :- Dinesh Chand

Respondent :- State of U.P. and Others

Counsel for Petitioner :- Ashok Khare,Siddharth Khare

Counsel for Respondent :- C.S.C.

with

11. Case :- WRIT - A No. - 36455 of 2011

**Petitioner :- C/M Sarvjanik Kisan Uchcharat Madhyamik
Vidyalaya And Others**

Respondent :- State of U.P. and Others

Counsel for Petitioner :- Ashok Khare,Siddharth Khare

Counsel for Respondent :- S.C.

Hon'ble Saurabh Shyam Shamsbery,J.

1. Present bunch of writ petitions is a creation of mismanagement of the then Committee of Management of concerned institution since it has appointed teachers and staff in the Institution being relatives of Manager of Committee of Management and employees working at the Institution being contrary to legal provisions.

2. During an inquiry, it came into knowledge that High School certificate of one of employees viz. Chhotey Lal Rajpoot, Assistant Teacher was set aside in the year 1983 and this order had attained finality, still he was appointed and one Dinesh Chand, Class-IV employee was appointed when, according to records, he was a minor.

3. In aforesaid background, Ram Chandra and Ram Asre have approached this Court by way of filing a Writ A No. 26113 of 2006 with a prayer that they were real appointees whereas other appointees were either relatives of employees of the Institution or otherwise, being suffered with above referred legal impediments and, therefore, their appointments may be cancelled or they may not be taken up in the list of employees for purpose of payment of salary under grant-in-aid.

4. In aforesaid circumstances, an impugned order dated 14.02.2011 was passed by the Secretary, Department of Education (Secondary) whereby appointments of Chhotey Lal Rajpoot, Assistant Teacher and Dinesh Chand, Class-IV employee were found irregular and illegal on ground being cancellation of high school certificate and being minor

respectively, therefore, their names were directed to be deleted from the list of employees for purpose of payment of salary under grant-in-aid and representations filed by Principal and Manager of Committee of Management were also rejected by way of subsequent order passed on said date i.e. 14.02.2011 and said Ram Asre, Assistant Teacher and Ram Chandra, a Class-IV employee were included in the list for the purpose of payment of salary under grant-in-aid and names of Chhotey Lal Rajpoot, Assistant Teacher and Dinesh Chand, Class-IV employee were accordingly deleted from the list.

5. Aforesaid both orders were subject matter of Writ A No. 16586 of 2011 filed by Committee of Management through Manager Anil Kumar and Bacchan Lal Verma, the then Head Master.

6. This Court has passed a strict order on 30.03.2011 in aforesaid writ petition and for reference, same is quoted below :-

“This petition is another example as to how the orders passed by the writ Court are being deliberately violated and situation is being created by the highest officers of the Education Department namely the Secretary (Secondary Education) and the Director of Education (Secondary) for approving payment of salary to teachers and staff without actually verifying as to when they were appointed and after following what procedure.

This Court may refer to the judgment of the Hon'ble Single Judge dated 06.04.2007 passed in Civil Misc. Writ Petition No. 26113 of 2006 to which both the officers were a party. The Hon'ble Single Judge in paragraph 9 of the said judgment recorded that kith and kins of Principal, Manager, teaching, non-teaching

staff, employees of District Inspector of Schools' office were inserted in the list of Staff of the institution for payment of salary after the institution was taken on grant-in-aid list by the State Government with a vested interest to benefit their own men whose names were:

(a) Jay Prakash Rajpoot s/o. Manager of the institution.

(b) Chhote Lal Rajpoot: real nephew of the real brother-in-law of the Manager.

(c) Malikhan Singh : real nephew of the Principal.

(d) Dinesh Chandra : son of the Manager.

(e) Rakesh Kumar Katiyar : relative of clerk in the office of the District Inspector of Schools.

(f) Anita : daughter of retired Clerk of the office of the District Inspector of Schools.

Thereafter the Court proceed to direct the Director of Education to not only examine the correctness or otherwise of the relationship noticed above but also see the mode and manner of their appointment. It was provided as follows :

“The Director of Education (Secondary) U.P. at Allahabad Camp Officer at Lucknow after calling for entire record from the institution. It shall also be seen as to at what point of time, incumbents in whose favour order had been passed under U.P. Act No. 24 of 1971, had been appointed and the way and manner in which they had been appointed. Needless to say that fresh exercise be taken preferably within period of three months from the date of production of certified copy of this order.”

It is surprising that the Director who was granted three months' time to undertake the exercise, took three years to do the needful. The findings recorded by the Director of Education in his order dated 10.09.2009 are shocking. The Director in his order after

issuing notices to the parties concerned, in paragraph nos. 3, 4 and 5 records that the relationship with the persons concerned as noticed above, could not be established from records. Such approach of the Director practically amounts to abuse of the powers vested in him and an attempt to defrauding the public exchequer by deliberately not recording a finding as to whether the employee concerned was related to the prohibited degree with the management of the institution or not.

What makes the position worst is that the Director despite the specific direction of this Court did not record any finding whatsoever with regard to the procedure adopted in the matter of appointment of teachers and employees who were directed to pay salary under the impugned order. The Director in order to save his skin adopted a smart procedure and instead of passing final orders, as directed by this Court, forwarded the papers to the Secretary, Secondary Education for final orders after recording the aforesaid findings.

It is now that the Secretary comes into the act. He even after noticing the directions of the high Court as per the order dated 06.04.2007 which had been quoted in the order of the Director, deliberately did not consider any of the directions issued by this Court qua the process adopted in the matter of appointment of teachers and staff concerned. He vide order dated 14.02.2011 directed payment of salary to the staff of the institution (Annexure-15 to the writ petition) after removing names of persons and by inducting two new names. It is against this order that the present writ petition has been filed.

This Court is surprised as to how the highest officers of the Education Department are acting. While sanctioning payment of salary to the teachers and staff of the institution from State exchequer, absolutely no exercise has been undertaken which could establish that the teachers and staff had been validly appointed, what is worst is that there has been wilful

disobedience of the directions issued by the writ Court.

Before any further orders are passed, it would be in the interest of justice that the officers may be afforded an opportunity to explain the facts noticed above.

Put on 06.04.2011.

The Secretary (Secondary Education) and Director of Education (Secondary) shall file their personal affidavits explaining the facts noticed above, by the next date fixed.

Copy of the order may be issued to the learned Standing Counsel by 02.04.2011."

7. A compliance affidavit was filed on 05.04.2011 by Secretary, Department of Education (Secondary) and accordingly another order dated 09.05.2011 was passed by this Court and for reference, same is also quoted below :-

"After considering the material brought on record in the present petition, this Court on 30th March, 2011 passed the following orders:

"This petition is another example as to how the orders passed by the writ Court are being deliberately violated and situation is being created by the highest officers of the Education Department namely the Secretary (Secondary Education) and the Director of Education (Secondary) for approving payment of salary to teachers and staff without actually verifying as to when they were appointed and after following what procedure.

This Court may refer to the judgment of the Hon'ble Single Judge dated 06.04.2007 passed in Civil Misc. Writ Petition No. 26113 of 2006 to which both the officers were a party. The Hon'ble Single Judge in paragraph 9 of the said judgment recorded that kith and kins of Principal, Manager, teaching, non-teaching staff, employees of District Inspector of Schools' office were inserted in the list of Staff of the institution for payment of salary after the institution was taken on grant-in-

aid list by the State Government with a vested interest to benefit their own men whose names were:

(a) Jay Prakash Rajpoot s/o. Manager of the institution.

(b) Chhote Lal Rajpoot: real nephew of the real brother-in-law of the Manager.

(c) Malikhan Singh : real nephew of the Principal.

(d) Dinesh Chandra : son of the Manager.

(e) Rakesh Kumar Katiyar : relative of clerk in the office of the District Inspector of Schools.

(f) Anita : daughter of retired Clerk of the office of the District Inspector of Schools.

Thereafter the Court proceed to direct the Director of Education to not only examine the correctness or otherwise of the relationship noticed above but also see the mode and manner of their appointment. It was provided as follows :

"The Director of Education (Secondary) U.P. at Allahabad Camp Officer at Lucknow after calling for entire record from the institution. It shall also be seen as to at what point of time, incumbents in whose favour order had been passed under U.P. Act No. 24 of 1971, had been appointed and the way and manner in which they had been appointed. Needless to say that fresh exercise be taken preferably within period of three months from the date of production of certified copy of this order."

It is surprising that the Director who was granted three months' time to undertake the exercise, took three years to do the needful. The findings recorded by the Director of Education in his order dated 10.09.2009 are shocking. The Director in his order after issuing notices to the parties concerned, in paragraph nos. 3, 4 and 5 records that the relationship with the persons concerned as noticed above, could not be established from

records. Such approach of the Director practically amounts to abuse of the powers vested in him and an attempt to defrauding the public exchequer by deliberately not recording a finding as to whether the employee concerned was related to the prohibited degree with the management of the institution or not.

What makes the position worst is that the Director despite the specific direction of this Court did not record any finding whatsoever with regard to the procedure adopted in the matter of appointment of teachers and employees who were directed to pay salary under the impugned order. The Director in order to save his skin adopted a smart procedure and instead of passing final orders, as directed by this Court, forwarded the papers to the Secretary, Secondary Education for final orders after recording the aforesaid findings.

It is now that the Secretary comes into the act. He even after noticing the directions of the high Court as per the order dated 06.04.2007 which had been quoted in the order of the Director, deliberately did not consider any of the directions issued by this Court qua the process adopted in the matter of appointment of teachers and staff concerned. He vide order dated 14.02.2011 directed payment of salary to the staff of the institution (Annexure-15 to the writ petition) after removing names of persons and by inducting two new names. It is against this order that the present writ petition has been filed.

This Court is surprised as to how the highest officers of the Education Department are acting. While sanctioning payment of salary to the teachers and staff of the institution from State exchequer, absolutely no exercise has been undertaken which could establish that the teachers and staff had been validly appointed, what is worst is that there has been willful disobedience of the directions issued by the writ Court.

Before any further orders are passed, it would be in the interest of justice that the

officers may be afforded an opportunity to explain the facts noticed above.

Put on 06.04.2011.

The Secretary (Secondary Education) and Director of Education (Secondary) shall file their personal affidavits explaining the facts noticed above, by the next date fixed."

The Secretary filed an affidavit of compliance on 15.04.2011 and in paragraph 4 of his affidavit it has been stated that complete order of the High Court was not brought to his knowledge. The order dated 14.02.2011 was passed by him relying upon the report submitted by the Director, Secondary Education and that after scrutiny of the records it has been realized that the earlier order dated 14.02.2011 should not be passed by him. He has, therefore, suspended the order and the Director has been asked to re-enquire into the matter. In paragraph 6 it is stated that the report of the Director appears to be not correct resulting in illegal order.

The Director also filed an affidavit of compliance and in paragraph 4 it has been stated that the then Director of Education had enquired into the matter and had submitted his report to the Government, and on receipt of the order of the High Court dated 11.04.2011 the matter is being re-enquired.

The Court was not satisfied with the explanation so furnished and required the Secretary as well as the Director to pinpoint the responsibility which attaches upon the officer concerned for complete facts being not disclosed and the order of the High Court being not complied with resulting in illegal order of payment of salary from State Exchequer.

Today an affidavit has been filed by the same Secretary and it is stated that a three member committee was constituted to enquire into the matter. The Committee in its report has informed as follows:

(a) Jay Prakash Rajpoot is the son of the then Manager of the Committee of Management Sri

Mewa Ram, who was the Manager of the institution from 1973 to 07.12.2004. For a short duration he resigned and in his place Sri Randhir Singh became the Manager. However, on the appointment of Jay Prakash Rajpoot, Mewa Ram was again reinstated as Manager of the institution. It has been stated that his appointment is illegal and action is being taken for terminating his services.

(b) Chhote Lal Rajpoot's High School result was cancelled at the time he was appointed, as is established from the order of the High Court dated 26.08.2009 passed in Special Appeal No. 928 of 2009 and therefore his appointment is illegal.

(c) Malikhan Singh is the nephew of the Principal of the institution Sri Bachchan Lal Verma and his appointment has been made in violation of the provisions of Intermediate Education Act. Action is being initiated for terminating his services.

(d) Dinesh Chandra is the son of a Clerk in the institution. He was underage on the date of appointment i. e. 10.02.1997 his date of birth being 10.10.1980. His writ petition and special appeal have been dismissed.

(e) Rakesh Kumar Katiyar is the son-in-law of a Clerk in the office of the District Inspector of Schools.

(f) Mrs. Anita is the daughter of a retired Clerk in the office of the District Inspector of Schools. Her appointment is in violation of the provisions of the Intermediate Education Act.

In paragraph 7 it is stated that steps are being taken for terminating thte services of Jay Prakash Rajpoot, Chhote Lal Rajpoot, Malikhan Singh and Dinesh Chandra. The affidavit filed by the Director today is identical in nature.

Both of the officers have not stated as to whether on the date the order was passed, for sanctioning their salary on the recommendation of the Director, by the Secretary, Secondary Education dated 14.02.2011, the order of the

High Court dated 06.04.2007 was on record before them or not, nor the original record in that regard have been produced.

Because of such illegal order dated 14.02.2011 lacs of rupees of the State Exchequer have been paid towards salary to the aforesaid persons.

What is worst is that despite earlier order of the Writ Court dated 06.04.2007 and repeated order of this Court dated 30.03.2011, dated 15.04.2011 and dated 03.05.2011 neither the Secretary nor the Director have cared to examine the mode and manner of the appointment of the aforesaid persons, and in respect of four persons referred to above, absolutely no action is proposed.

It appears that the Secretary and the Director are in hand in gloves with the aforesaid persons and it is in this background that they are deliberately not examining the mode and manner of their appointments despite the order of the Court having been passed nearly four years ago. It appears that none of the officers of the State are interested in entering into the basic issue qua the procedure and method adopted in the matter of appointment of the aforesaid persons so that truth may come out. This Court is surprised that there is absolutely no attempt on the part of the State authorities to recover the loss caused because of such illegal appointment of the said persons, although in one case the appointment has been found to be based on forged mark-sheet.

This Court is left with no other option but to direct the Chief Secretary of the State to summon the original records in the matter of appointment of respondents and to examine for himself as to whether the procedure prescribed under the Intermediate Education Act had been followed in the matter of their appointment and in case such procedure had not been followed, how could the Secretary and Director approve such appointment for the purpose of payment of salary. He must also consider as to what action could be initiated against the said officers, who have been so negligence in

performing the duties expected of normal officer holding such high office as well as in carrying out the directions issued by this Court, as noticed above. State Exchequer cannot be permitted to be defraud because of the collusion between the highest officers of the State and the teachers and employee concerned, as is reflected from the records of the present proceeding before this Court.

Strictest possible action must be taken.

The Chief Secretary must file his affidavit by the next date, after examining the records, disclosing the action proposed.

Put up on 17.05.2011.

Let certified copy of this order be supplied to the Standing Counsel for being forwarded to the Chief Secretary by 11.05.2011."

8. As referred above, impugned order dated 14.02.2011 was suspended and it was specifically observed that appointments of Chhotey Lal Rajpoot, Malikhan Singh, Dinesh Chand, Rakesh Kumar Katiyar and Mrs. Anita were irregular and illegal since they were closely related to Principal, Clerk working in institution and Manager of Committee of Management as well as that above referred legal impediments were also taken note so far as appointments of Chhotey Lal Rajpoot and Dinesh Chand were concerned. Before it, said order was challenged by employees of institution since their appointments were found irregular and illegal by way of different writ petitions.

9. In aforesaid circumstances, a specific order was passed whereby recovery was proposed not only from employees who were irregular appointed but against the then D.I.O.S. and Manager of Committee also. Respective orders were challenged at the behest of Manager of Committee of Management as well

as employees of institution in other set of writ petitions which are connected along with this writ petition.

10. One such writ petition being Writ A No. 28045 of 2013 was filed by Jai Prakash Rajpoot, an irregular appointed Assistant Teacher against an order of recovery and the Coordinate Bench of this Court vide order dated 03.07.2013 had dismissed the said writ petition. For reference, said order is quoted below :-

“Heard learned counsel for the petitioner and learned Standing Counsel for the State-respondents.

From the records of the present writ petition, it is apparently clear that the State Government issued an order on 27th May, 2011 putting an end to the services of the petitioner and directed recovery of amount of Rs. 9,62,186 from the petitioner. Against the said order and the consequential letter of the District Inspector of Schools dated 6th June, 2011, petitioner has filed Civil Misc. Writ Petition No. 36290 of 2011 (Jai Prakash Rajpoot vs. State of U.P. & others). Admittedly no interim order has been granted in the said writ petition against the recovery or the order of termination of the services of the petitioner.

In view of the aforesaid, this Court is of the considered opinion that no interference against the recovery proceedings is called for in this writ petition. The action, which is being taken is only consequential to the main order dated 27th May, 2011 and dated 6th June, 2011, which are under challenged in an earlier petition.

If the petitioner has any grievance in the matter of recovery, he may approach the Writ Court in his pending writ petition no. 36290 of 2011.

This Court may further record that the money which is being recovered from the petitioner is in respect of salary received because of fraudulent appointments made in recognized intermediate colleges. After detail enquiry, it has been found that the petitioner is one of the beneficiary of such illegal appointment. The result of such illegal appointment has been that the public exchequer has been defrauded. This Court will not exercise its discretion under Article 226 of the Constitution of India in favour of person, who is party to such fraud.

The present writ petition is accordingly dismissed."

11. It is informed that said order has attained finality, therefore, writ petition filed by another employee against the order of recovery being Writ A No. 28044 of 2013 filed by Chhotey Lal Rajpoot whereby order dated 04.05.2013 and recovery citation were challenged is accordingly dismissed. Otherwise also, it has been informed that recovery orders against concerned employees have already been effected.

12. According to Sri Ashok Khare, learned Senior Advocate appearing for petitioners, these employees are still working, however, no salary has been paid to them.

13. In pursuance of order passed by this Court in the year 2013, recovery proceedings were also initiated against the then D.I.O.S. and Manager of Committee of Management, therefore, Writ A No. 24443/2013, Writ A No. 36455/2011, Writ A No. 25933/2013 and Writ A No. 29811/2013 were filed wherein respective order of recovery was challenged and this Court by different orders dated 01.05.2013, 07.07.2011, 08.05.2013 and 24.05.2013 has stayed recovery with liberty to initiate fresh

proceedings after giving a proper notice. For reference, one of such orders dated 01.05.2013 passed in Writ A No. 24443/2013 is quoted below :-

"The petitioners are aggrieved by the order dated 22.4.2013 passed by the District Inspector of Schools directing recovery of certain amounts from the petitioners who are all retired District Inspector of Schools. The said order has been passed on the basis of a Government Order dated 27th May, 2011. It is contended that the recovery has been directed because certain appointments in a Government aided college had been made and since it was found that the said teachers were illegally appointed, the salary paid to such teachers is to be recovered from the officials."

The specific case of the petitioners is that none of the petitioners were posted as District Inspector of Schools of the district in question when the appointments of the teachers had been made. They were all posted subsequently and have also retired. The submission of the learned counsel for the petitioners is that the impugned order has been passed without affording the petitioners any opportunity of hearing and had they been given an opportunity they could have explained their position. It is thus submitted that the impugned order having been passed in gross violation of the principles of natural justice is liable to be quashed.

In our view, the matter requires consideration.

Learned Standing Counsel appears for the respondents. He prays for and is granted a month's time to file counter affidavit. The petitioner shall have two weeks thereafter to file rejoinder affidavit. List immediately thereafter.

Considering the facts and circumstances of this case, it is directed that the recovery from the petitioners in pursuance of the impugned order dated 22.4.2013 passed by the respondent no. 4, the District Inspector of

Schools, Kannauj which is said to be in compliance of the Government Order dated 27.5.2011 passed by the respondent no. 1 shall remain stayed. However, it shall be open to the authorities concerned to pass fresh orders, in accordance with law, after giving opportunity of hearing to the petitioners."

14. It was informed that Department has not initiated any fresh proceeding against said petitioners and at this stage i.e. after more than a decade, when petitioners are now aged about about 70 years, therefore, in the interest of justice, since respondent Department has not initiated any fresh proceedings, therefore, interim orders dated 01.05.2013, 07.07.2011, 08.05.2013 and 24.05.2013 passed in Writ A No. 24443/2013, Writ A No. 36455/2011, Writ A No. 25933/2013 and Writ A No. 29811/2013 respectively are made absolute and accordingly, all these writ petitions are disposed of.

15. Now, this Court takes note of remaining writ petitions, firstly the Writ A No. 16586/2011 filed by Committee of Management. In this writ petition, order dated 14.02.2011 was challenged and as referred above, said order was stayed and later on, another interim order was passed in the year 2013 whereby order of recovery, etc. was stayed, still challenge to impugned order dated 14.02.2011 survives.

16. In Writ A No. 16586/2011, respondent-7 Ram Chandra has since deceased and is now being represented by his son.

17. Learned Senior Advocate has submitted that impugned order was challenged mainly on ground that appointments of Dinesh Chand, Class-IV employee and Chhotey Lal Rajpoot, Assistant Teacher was wrongly declared to be irregular and

illegal, though learned Senior Advocate has not disputed that high school certificate of Chhotey Lal Rajpoot was cancelled and it was further upheld, however, he submitted that since certificates of higher education were not cancelled which was the eligibility for appointment of Assistant Teacher, therefore, his appointment could be protected.

18. Aforesaid submissions were opposed by learned Standing Counsel for State and supported the impugned order that once high school certificate was cancelled, which was essential qualification to pass further examinations, therefore, further qualifications could not be taken note of.

19. After considering aforesaid submissions, Court is of the view that since admittedly high school certificate of said person was cancelled and even challenge to it remained unsuccessful, therefore, he was illegally admitted for higher education courses and its legal consequence shall follow that further higher degrees would be considered to be non-est, therefore, challenge of petitioner is rejected.

20. Learned Senior Advocate has further submitted that admittedly that appointment of Dinesh Chand, Class-IV employee was made when he was minor, however, he submitted that since said person was otherwise eligible, therefore, said irregularity could be ignored.

21. Per contra, learned Standing Counsel has supported the impugned order that since undisputedly, he was minor, therefore, his appointment was illegal and irregularity goes to the root of his appointment.

22. I have considered above submissions and I am of considered opinion that since admittedly, said person was appointed when he was minor which was de-hors to relevant provisions, therefore, there is no illegality when its appointment was considered to be irregular and illegal. Court also takes note that during inquiry, it was revealed that said person was a relative of a Clerk working in the Institution, therefore, also no interference could be caused.

23. At this stage, Court also takes note that recovery has already been effected against both said persons and since Court is of considered opinion that his appointment was illegal, therefore, payment made from grant-in-aid was rightly recovered which does not require any interference.

24. According to learned Senior Advocate said petitioners are still working in college without salary for last several years, however, if it so, it would be a liability upon Committee of Management and not upon the State for payment of salary. Accordingly, without interfering with impugned order dated 14.02.2011, Writ A No. 16586/2011 stands disposed of.

25. Now Court proceeds to decide Writ A Nos. 36289/2011, 36290/2011, 36291/2011, 36292/2011 and 36455/2011. Writ A No. 36290/2011 was filed by terminated employee i.e. Jai Prakash Rajpoot who was appointed as Assistant Teacher and undisputedly, his father was Manager of Institution from 1973 to 2004, therefore, his appointment being dehors of Rules could not be protected. Accordingly, Writ A No. 36290/2011 is dismissed.

26. Dinesh Chand, Class-IV employee who was son of Clerk working in college has filed a Writ A No. 36292/2011 and as referred above, his appointment was found illegal since he was appointed when he was a minor. Challenge at the behest of Committee of Management has already been rejected and since there is no other argument, therefore, above referred Writ A No. 36292/2011 is also dismissed.

27. Writ A No. 36289/2011 was filed by Malikhan Singh who was appointed as Class-IV employee and his appointment was found to be irregular and illegal since he was closely related to the then Principal and undisputedly, there are provisions and various judgments of this Court that appointment of a close relative of Manager, Members of Committee of Management as well as Principal and employees working in institution was barred. (see **Mahendra Kumar Vs. State of U.P. and others, 2025:AHC:28050**)

28. Petitioner has not able to dispute said relationship, therefore, there is no reason to take a contrary view to well settled law.

29. So far as submission that said person is still working, liability, if any, will be upon Committee of Management and not upon State. It has further been informed that recovery has already been made against said petitioner, therefore, no interference is required, therefore, Writ A No. 36289/2011 is also dismissed.

30. Writ A No. 36291/2011 was filed by Chhotey Lal Rajpoot. As already observed in earlier paragraph that his appointment

was made despite his high school certificate was cancelled and challenge to it was rejected and since his appointment has already been considered to be illegal and therefore, this writ petition is also dismissed.

31. The last writ petition being Writ A No. 10488 filed by Ram Chandra and Ram Asre is for consideration. Ram Chandra is now deceased and he is represented by his son. This writ petition was filed against order dated 27.05.2011 whereby earlier order dated 14.02.2011 whereby appointment of Chhotey Lal Rajpoot and Dinesh Chand were declared to be legal and their appointments were protected and their names were directed to be included in the list of grant-in-aid, were later on stayed during pendency of Writ A No. 16586/2011, therefore, despite a positive direction, their names were not included in the list.

32. As referred above, court has already upheld the order dated 14.02.2011, therefore, benefit of said order could be granted to present petitioners, however, Court takes note that petitioner-1 has already died, therefore, no advantage could be given now and petitioner-2 i.e. Ram Asre who was aged about 52 years when this writ petition was filed in the year 2013 and now he must be aged about 64 years and there are no pleadings that said petitioner has worked in respondent college, therefore, despite being a favourable order in his favour, since no interim order was granted by this Court and this writ petition was pending for last many years, as such much water has flown, therefore, no benefit could be granted to him.

33. Sri Nisheeth Yadav, learned counsel for petitioners in Writ A No. 10488/2013 has placed reliance upon certain judgments that even in such circumstances, petitioner-2 could be reinstated or instead of backwages, lumpsum amount could be granted.

34. I have considered above submissions and still I am of the view that since order dated 14.02.2011 was not in force, no interim relief was granted when said order was kept in abeyance by subsequent order dated 27.05.2011 impugned in this writ petition as well as there is no material before this Court that petitioner-1 when he was alive or petitioner-2 have worked, therefore, facts of present case are such that no relief could be granted to him also. Accordingly, Writ A No. 10488/2013 is also dismissed.

35. Final conclusion of each writ petition is as follows :-

(i) Writ A No. 16586/2011 :- Challenge to impugned order dated 14.02.2011 is rejected and petition is **disposed of** with an observation that liability of payment would be on Committee of Management. (see para 24)

(ii) Writ A No. 10488/2013 :- **Dismissed.** (see para 34)

(iii) Writ A No. 24443/2013 :- Interim order made absolute, hence, **disposed of.** (see para 14)

(iv) Writ A No. 36455/2011 :- Interim order made absolute, hence, **disposed of.** (see para 14)

(v) Writ A No. 25933/2013 :- Interim order made absolute, hence, **disposed of**. (see para 14)

(vi) Writ A No. 29811/2013 :- Interim order made absolute, hence, **disposed of**. (see para 14)

(vii) Writ A No. 36290/2011:- **Dismissed**. (see para 25)

(viii) Writ A No. 36292/2011:- **Dismissed**. (see para 26)

(ix) Writ A No. 36289/2011 :- **Dismissed**. (see para 29)

(x) Writ A No. 36291/2011 :- **Dismissed**. (see para 30)

(xi) Writ A No. 28044/2013 :- **Dismissed**. (see para 11)

35. During hearing, Court has requested the advocates appearing from rival parties to submit a short brief about status of petitioners in each writ petition and relief sought for convenience of Court, however, they were failed to provide any short brief and, therefore, Court is constrained to convey its displeasure.

Order Date :- **March 10, 2025**
Sinha_N.

[Sauabh Shyam Shamshery, J.]