

(2014) 04 AHC CK 0251
In the Allahabad High Court
Case No : Writ C. No. 4738 of 2014

Arya Gurukul Mahavidyalaya

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 25-04-2014

Acts Referred:

Constitution of India, 1950 — Article 351

Citation : (2014) 4 ALJ 452 : (2015) 1 AWC 884 : (2014) 3 ESC 1352

Hon'ble Judges : Pradeep Kumar Singh Baghel, J

Bench : Single Bench

Advocate : Devendra Pratap Singh, Advocate for the Appellant; Ved Byas Mishra, Advocate for the Respondent

Final Decision : Allowed

Judgement

Pradeep Kumar Singh Baghel, J.—The petitioner has preferred this writ petition for issuance of a writ of certiorari quashing the order dated 14th November, 2013 passed by the Secretary, Sanskrit Shiksha Anubhag, Government of U.P., Lucknow, the respondent No. 1, whereby grant of financial aid to the petitioner's Institution has been suspended on the ground that it does not satisfy the norms with regard to strength of students in the Institution. A brief reference to the factual aspects would suffice.

2. The petitioner is a Committee of Management of an educational institution, namely, Arya Gurukul Mahavidyalaya, Sirsaganj, Firozabad (for short, the "Institution"), which is a Sanskrit College. The Institution has been established by a Society, known as, Arya Gurukul Sirsaganj, District Mainpuri. The Institution is affiliated to Sampurnanand Sanskrit University, Varanasi (for short, the "University"). In the Institution the education is imparted from Standard-VI (Prathma) upto the level of Aacharya (Post Graduate). The Institution receives aid out of the State fund. Its affairs are governed by the Uttar Pradesh State Universities Act, 1973 (for short, "the Act, 1973") and the First Statute of the University. It is stated that the Committee of Management of the Institution is

duly recognised by the Vice-Chancellor of the University in terms of Section 2(13) of the Act, 1973.

3. It is averred in the writ petition that due to political interference the District Inspector of Schools, Firozabad vide order dated 22nd October, 2013 passed the order for single operation of the Institution without giving any opportunity to the petitioner. Aggrieved by the said order, the petitioner preferred a writ petition, being Writ-C. No. 60410 of 2013 (C/M Arya Gurukul Mahavidyalaya, Firozabad v. State of U.P. and another). Said writ petition was allowed by this Court vide order dated 31st October, 2013 and the order of the District Inspector of Schools was set aside.

4. It is further pleaded in the writ petition that this Court in Writ-A No. 51543 of 2008 (Hari Ram Pandey and others v. State of U.P. and others) vide order dated 25th April, 2012 issued a direction to the Secretary, Secondary Education, U.P. to constitute a Committee and hold an enquiry as to how many schools are running in the State of Uttar Pradesh receiving grant-in-aid and whether the schools have got their physical existence having appropriate infrastructure in accordance with the norms prescribed by the Government. It was also directed that the Committee so constituted shall find out whether the schools established fulfill the required conditions and whether substantial number of students have been admitted or not.

5. It transpires from the record that in compliance thereof the State Government had constituted a Committee in every region under the Chairmanship of Joint Director of Education of the concerned region in respect of Sanskrit schools/ colleges. On the basis of the report submitted by the said Committee, a show cause notice dated 14th March, 2013 was issued to the Institution, wherein it was stated that in the Institution of the petitioner the number of students is less than the norms, therefore, the Institution is not entitled to receive grant-in-aid. In response to the show cause notice the petitioner submitted a detailed representation on 25th March, 2013 and also gave a chart with regard to the students for the year 2011, 2012 and 2013 separately. According to the chart, in the year 2011, 111 students were registered, out of them 96 appeared in the examination and 91 students were declared successful. In 2012, 127 students were enrolled, all 127 appeared in the examination and 115 students were declared passed by the University. In 2013, it is stated, 119 students have been enrolled.

6. The State Government by the impugned order dated 14th November, 2013 has found that the number of students is less than the norms laid down in Statute 12.01 of the Statutes of the University. It is recorded in the impugned order that under the Statute 12.01 minimum students required to be registered in Uttar Madhyama is 40 and in Purva Madhyama 35, but in the Institution there are 20 students in Uttar Madhyama and 23 students in Purva Madhyama. Therefore, the Institution does not satisfy the norms laid down under the Statute 12.01. Accordingly, the financial aid to the Institution has been suspended in

terms of Statute 12.03.

7. A counter affidavit has been filed on behalf of respondent No. 5-University. The stand taken in the counter affidavit is that till the academic session 2000-01 the institutions imparting education from Prathama to Aacharya were governed under the provisions of the First Statute of the University but after the enactment of the Uttar Pradesh Board of Secondary Sanskrit Education Act, 2000 (for short, the "Act, 2000") Uttar Pradesh Board of Secondary Sanskrit Education (Uttar Pradesh Madhyamik Sanskrit Shiksha Parishad) (for short, "the Board") has been established and the institutions imparting education upto Uttar Madhyama are governed by the Board and the institutions imparting education of Shastri and Aacharya are governed under the provisions of the Act, 1973 and the First Statute of the University. It is averred that after creation of the Board the institutions imparting education from Purva Madhyama to Aacharya were asked to submit option as to whether they are willing to impart education either upto Uttar Madhyama or Shastri and Aacharya or both. The petitioner's Institution opted to run both the institutions, for which it has to create separate infrastructure for each section of the Institution. It is also averred that the Institution has submitted the examination forms of Shastri I, II and in year and Aacharya I and II year for the Examination-2014. A copy of the receipt has been enclosed as Annexure-1 to the counter affidavit which indicates that 73 forms have been submitted by the petitioner's Institution for the Examination-2014. Along with the counter affidavit a list of colleges, which are affiliated with the University and which are eligible in terms of the Statute, has been enclosed. Name of the petitioner's Institution finds place in the said list. It is further submitted in the counter affidavit that only Shastri and Aacharya classes are governed under the provisions of the First Statute of the University and not the secondary education classes as the same have to be governed under the provisions of the Act, 2000. The University conducts the examination of only Shastri and Aacharya and the courses of Purva Madhyama and Uttar Madhyama are not governed by the provisions of the Act, 1973 and the First Statute of the University. It is averred that the University has no role to conduct the examinations of Purva Madhyama and Uttar Madhyama. The University has conducted the examinations of Shastri and Aacharya of petitioner's Institution for the year 2011 and 2012.

8. I have heard Sri. Devendra Pratap Singh, learned Counsel for the petitioner, Sri. Ved Byas Mishra, learned Counsel for the respondent No. 5-University and learned Standing Counsel for the State and its authorities.

9. Learned Counsel for the petitioner submits that the respondent No. 1 has misinterpreted Statute 12.01 of First Statute of the University and has not considered the reply submitted by the petitioner in response to the show cause notice issued to it. He submits that the Institution is a Sanskrit Mahavidyala (Post Graduate College). It imparts education from Prathama to Aacharya (Class-VI to Post Graduation) and it is very old institution having good infrastructure. It has boys hostel and the students of Prathama (Class-VI to Class-VIII) are given free

education, free fooding and lodging in the hostel by the Institution from its own resources. While granting affiliation to the Institution, the University was satisfied that the Institution fulfills all the norms laid down under the provisions of the Act, 1973 and the First Statute of the University. He further contended that in response to the show cause notice dated 14th March, 2013 the petitioner has submitted a detailed reply dated 25th March, 2013, wherein details of strength of the students from Prathama to Acharya have been mentioned year wise i.e. 2011, 2012 and 2013, but the Secretary has not adverted to the reply submitted by the petitioner and passed the impugned order.

10. Learned Standing Counsel has supported the order of the State Government and has drawn the attention of the Court to the Statute 12.01.

11. Learned Counsel for the University submits that the University is concerned only with the examinations of Shastri (Graduation) and Acharya (Post Graduation). It is not concerned with the examinations of Prathama, Purva Madhyama and Uttar Madhyama as it does not conduct their examinations.

12. Learned Standing Counsel has tried to justify the order passed by the Secretary, the respondent No. 1, and he has submitted a written submission. In the written submission it is mentioned that this Court in the case of Hari Ram Pandey (supra) had directed the Secretary of Secondary Education to constitute a Committee and hold enquiry as to how many schools (Sanskrit Schools) are running in the State of Uttar Pradesh receiving grant in aid and the number of the students joining the school and whether the schools have got their physical existence having appropriate infrastructure in accordance with the norms prescribed by the Government. It was further directed that the Committee so constituted shall find out whether the schools established fulfilled the required condition and whether substantial number of students have been admitted or not. It is submitted that in compliance of the said judgment, inspection of the petitioner's Institution was made and it was found that the Institution is an old institution; it has sufficient classrooms, playground; and, it has facility of drinking water and other infrastructures. A copy of the said inspection report has been brought on record along with the written submission. It is mentioned in the inspection report that in the previous academic session the result of the Institution was 89.28%. During inspection it was also found that there were total 32 rooms in the Institution and total 99 students were found to be enrolled. It is also mentioned in the written submission that in the explanation submitted by the petitioner on 26th March, 2013 it was stated that 23 students were admitted in Purva Madhyama and 20 students in Uttar Madhyama, while according to Statute 12.01 of First Statute of the University minimum 40 students in Uttar Madhyama and 35 students in Purva Madhyama are required to be registered and thus, according to the spot inspection, the students were found less than the number required under the aforesaid provision of the Statute. Therefore, there is no illegality in the order passed by the State Government.

13. I have considered the rival submissions advanced by the learned Counsel for

the parties and perused the record.

14. In the Institution of the petitioner education is imparted from Prathama to Acharya level. The Institution is affiliated to the University, However, after the enactment of Act, 2000 the University deals with the Shastri and Acharya degree only. It appears that after the enactment of Act, 2000, Chapter XII of First Statute of the University has not been amended as it deals with Purva Madhyama institutions also. Statute 12.01(1) deals with the Post Graduate Colleges (Acharya). It requires that minimum strength of the students in the Post Graduate colleges should be 60. Vide notification dated 31st October, 1985 the number of students has been increased from 40 to 60. Statute 12.01(1)(B) provides that minimum 15 students are required to appear in Shastri and Acharya examinations and the percentage of successful students should be at least 35 out of the total number of students, who appeared in the examination. In Degree Colleges (Shastri) the minimum number of the students required to be registered is 50, but before the aforementioned notification dated 31st October, 1985 said number was also 40. Statute 12.01(2)(B) requires that from Prathama to Shastri at least 30 students are required to appear in the examination and minimum required percentage of successful candidates is also 35. The requirement of minimum number of students registered in Uttar Madhyamik Vidyalaya (Uttar Madhyama) and Purva Madhyamik Vidyalaya (Purva Madhyama) is 40 and 35 respectively.

15. I find it useful to extract Statute 12.01 of the First Statute of the University for the sake of convenience, as under:

(Vernacular matter omitted... Ed.)

16. From a perusal of the Statute it is evident that Statute 12.01(1)(A) requires the total number of 60 students to be registered in Post Graduate Colleges. Thus, the requirement is 60 students in the entire Institution and not in Acharya class only. Similarly, total number of students required to be registered in Degree Colleges (Shastri) is 50, in Uttar Madhyamik Vidyalaya 40 students and in Purva Madhyamik Vidyalaya 35 students. However, the impugned order has misconstrued the Statute as the number of students in particular course, whereas the requirement is regarding total number of strength of the students in the college, which is manifest from the simple reading of the Statute.

17. Along with the counter affidavit the University has annexed the documents, which indicate that the petitioner's Institution was found eligible for the affiliation as the total number of students in Acharya and Shastri were found to be 73. This fact is established from the receipt issued by the University which has been brought on record along with the counter affidavit of the University.

18. It is significant to mention that the petitioner has submitted a detailed reply dated 25th March, 2013 before the respondent No. 1 on 26th March, 2013. In the said reply, which has been brought on record as Annexure-6 to the writ petition and which has not been denied in the counter affidavit filed by the

respondents, total strength of the students from Prathama to Acharya has been mentioned. From the said chart mentioned in the reply it is evident that in the year 2011 total number of students registered in the Institution were 111, out of which 96 appeared in the examinations, and the result of Prathama, Purva Madhyama and Uttar Madhyama was 100%, result of Shastri was 96% and that of Acharya was 82.60%. In the year 2012, total number of students registered in the Institution was 127, total 127 appeared in the examinations and the result of Prathama was 53.84% whereas result of Purva Madhyama, Uttar Madhyama, Shastri and Acharya was 100%. The respondents have not adverted to the reply submitted by the petitioner wherein details of students have been mentioned.

19. The Court also finds that in the impugned order the respondent No. 1 has misconstrued the provisions of Statute 12.01. Requirement of 40 students under Statute 12.01(3) is not only for Uttar Madhyama course but it is total strength of the students of Uttar Madhyama Institution, which includes from Prathama to Uttar Madhyama classes. For the said reason, the view taken in the impugned order that there are less than 40 students in Uttar Madhyama is unsustainable. If the interpretation of the said Statute as done by the impugned order is accepted, then in an institution at the level of Uttar Madhyama would require at least 75 students as 40 in Uttar Madhyama and 35 in Purva Madhyama. Said interpretation is obviously incorrect in view of the language used in the Statute.

20. Regard being had to the fact that the State Government has issued a Government Order dated 24th May, 2004 after the enactment of the Act, 2000. In the said order the minimum strength of the students required to be in Shastri is 30 and in Acharya (Post Graduate) it is 15. Thus, from this Government Order also it is evident that in the impugned order the Statute of the University has been mis-construed.

21. It appears that in pursuance of the order of this Court in Hari Ram Pandey (supra), the Secretary without application of mind and without adverting to the reply submitted by the petitioner has passed the impugned order mechanically. Thus, the impugned order suffers from perversity as the findings are not based on any material and the reply submitted by the petitioner has not been considered at all.

22. Before parting with the case, I would like to mention that Sanskrit is considered among the ancient languages of the world. The State should make endeavor to protect and promote the said language. Most of the Sanskrit schools are in pitiable condition due to apathy and neglect of the State and in absence of the financial aid a large number of Sanskrit Institutions are at brink of closer.

23. The Supreme Court in the case of Santosh Kumar and others etc., Vs. The Secretary, Ministry of Human Resources Development and another, , has considered the importance of Sanskrit language and held as under:

"18. We also propose to refer to what was said by the Sanskrit Commission on the subject of "Sanskrit and National Solidarity" in Chapter IV of its report. The

Commission has, in this context first stated that Sanskrit is the "embodiment of Indian culture and civilisation". It then observes that the Indian people look upon Sanskrit as the binding force for the different peoples of this great country, which was described as the greatest discovery which the Commission made as it travelled from Kerala to Kashmir and from Kamarupa to Saurashtra. The Commission, while so travelling, found that though the people of this country differed in a number of ways, they all were proud to regard themselves as participants in a common heritage; and that heritage emphatically is the heritage of Sanskrit. According to the Commission one of the witnesses who appeared before it went to the length of suggesting that if the Sanskrit Commission had come before the States Reorganisation Commission, many of the recent bickerings in our national life could have been avoided. (pages 80 and 81)

19. From what has been stated above, we entertain no doubt in our mind that teaching of Sanskrit alone as an elective subject can in no way be regarded as against secularism. Indeed, our Constitution requires giving of fillip to Sanskrit because of what has been stated in Article 351, in which while dealing with the duty of the Union to promote the spread of Hindi, it has been provided that it would draw, whenever necessary or desirable, for its vocabulary, primarily on Sanskrit. Encouragement to Sanskrit is also necessary because of it being one of the languages included in the Eighth Schedule."

24. This Court also in the case of Ramesh Upadhyaya and Another Vs. State of U.P. and Others, has highlighted the need of preservation of Sanskrit language. The Court has directed the State Government to promote the said language. Relevant part of the judgment, being paragraphs-4, 8, 9, 12, 13 and 14, is extracted hereunder:

"4. I am constrained to say that in our country Sanskrit is hardly getting the respect it deserves. A language which was declared by that outstanding scholar, Sir William Jones, to be "more perfect than Greek, more copious than Latin, and more exquisitely refined than either" is today practically regarded as worthless, and its teachers are treated shabbily. This just shows the level of degradation to which we have fallen.

8. The high development of the Sanskrit language was not accidental. It took place because a vehicle of expressing highly abstract, subtle and profound thoughts was required to fulfill the intellectual needs of the educated people in India. As is well known, our ancestors were highly intelligent, and they questioned everything (like the ancient Greeks). Mathematics, Physics, Literature, Philosophy, Law, etc. became highly developed in our country, and hence a correspondingly highly developed and powerful vehicle of expression was required to communicate words or thoughts with elegance, precision and exactitude. Hence the crude Sanskrit of the Vedic Literature was refined and systematized by Panini and Patanjali who made it perhaps the most highly developed of all the languages of the world.

9. To give a simple example, the arrangement of the alphabets as given by Panini in his first fourteen sutras is so amazingly scientific that even learned men of the whole world are wonder struck. We may contrast this with the arrangement of alphabets in the English Language (from A to Z) which is arbitrary, unsystematic and unscientific. On the other hand, the arrangement of the Sanskrit alphabets is not accidental or arbitrary. It has been done on a scientific pattern, obviously after close observation of the sounds in human speech. Thus, for example, the vowels are arranged according to the shape of the mouth when these sounds are emitted-- and are pronounced from the throat, from the palate, from the lips, etc. In the same way, consonants have been arranged in sequences on a scientific pattern. They are emitted from the throat, the from the palate, the from the roof of the mouth, the from the teeth, and the from the lips. These principles are given by Panini as follows:

(Vernacular matter omitted... Ed.)

I venture to say that no language in the world has its alphabets arranged in such a rational and systematic manner. And when we see how deeply our ancestors went in the seemingly simple matter of arranging the alphabets we can realise how deeply they went in more advanced matters.

Real knowledge of Sanskrit shows that it was the language of an enquiring man which enquired into every aspect of life. It is for this reason that Sanskrit has been an excellent mode of expression and communication in all fields e.g. Literature, Philosophy. Science, etc. In philosophy Sanskrit was the language used not only by the metaphysical thinkers but also the materialist thinkers like the Nyayiks, Vaisheshiks, Charvaks, etc. Thus, Sanskrit was the language of free thinkers, expressing the widest spectrum of thoughts.

12. In my opinion alongwith Sanskrit Urdu should also be taught for at least 5 years in our schools (say upto Class 8). Urdu is also a great language of our country, and it was falsely given out to be the language of Muslims alone. The British wanted to divide our people, and hence they created the false propaganda that Hindi was the language of Hindus and Urdu of Muslims. In fact Urdu was the common language of the educated North Indian people, both Hindus and Muslims. The great Urdu poets like Mir, Ghalib, Faiz, Firaq and Josh were thoroughly secular, and their poetry is of the highest order.

13. Today our young generation is thoroughly deculturized, cynical, end-lacking in all moorings. They are ignorant of two great languages of India, Sanskrit and Urdu. Hence if they are taught these languages for at least 5 years in school it will provide the young generation at least a rudimentary knowledge of these great languages (which can later be increased by their own effort), and thus acquaint them with their own culture. This will also blunt the effort of the fundamentalists (both Hindu and Muslim) who are trying to divide our country on religious lines.

14. In the circumstances the writ petition is allowed and a mandamus is issued

directing the respondents to pay salary to the primary section teachers in Sanskrit institution through the State as is done in the case of primary school teachers of High School and Intermediate Colleges. Also, the salaries to be paid to the former must be the same as that paid to the latter. The petitioners will also be entitled to other consequential benefits like group insurance, General Provident Fund, retirement benefits etc. which are being made available to the primary section teachers in High School and Intermediate Colleges."

25. After careful consideration of the matter, the Court finds that the impugned order passed by the Secretary is based on misconstruction of the Statute of the University and the order has been passed without adverting to the objection filed by the petitioner. For the aforesaid reasons, the impugned order dated 14th November, 2013 passed by the respondent No. 1 is unsustainable and it needs to be set aside. Accordingly, it is set aside. The matter is remitted to the respondent No. 1 to pass fresh order after hearing the petitioner.

26. Accordingly, the writ petition is allowed. No order as to costs.