
(2003) 01 AHC CK 0129
In the Allahabad High Court
Case No : C.M.W.P. No. 40548 of 2001

Dr. Sabhajeet Yadav and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 16-01-2003

Acts Referred:

Citation : (2003) 1 AWC 795

Hon'ble Judges : Prakash Krishna, J;M. Katju, J

Bench : Division Bench

Advocate : S.P. Singh, for the Appellant; Anil Tiwari, Inderjeet Singh Yadav and Bhagwati Prasad and S.C., for the Respondent

Final Decision : Dismissed

Judgement

M. Katju, J.—This writ petition has been filed for a mandamus directing the State Government to release funds for payment of monthly salaries to the petitioners and further directing the respondent No. 2 to release the monthly salaries of the petitioners since the date of their appointment in Kishan Mahavidyalaya Baghano, Ghazipur.

2. It is admitted in para 3 of the writ petition that till date, the institution has not come on grant-in-aid category. The institution is a recognized institution imparting postgraduate education, which has been granted permission by the State Government for opening graduate classes in Arts subjects, vide Annexure-1 to the writ petition. The appointment of the petitioners were duly approved by the Vice-Chancellor vide Annexure-2 to the writ petition. True copies of the appointment letters issued by the Committee of Management on 30.9.1991 are Annexures-3A to D to the writ petition. The Committee of Management is not releasing the salaries of the petitioners vide Annexures-7A to D. The State Government issued order dated 21.8.2000 vide Annexure-9 to the petition stating that the State Government will not give grant in aid to any institution in future. It is stated in para 12 of the petition that the payment of the petitioners are not being released by the respondent Nos. 1 and 2 and this was illegal.

3. A counter-affidavit has been filed and in para 3 (a), it is stated that Kishan P. G. College is a non-Government non-aided degree college affiliated to Purvanchal University and is governed by the U. P. State Universities Act and Government orders issued by the State Government from time to time. In para 3 (c) it is stated that the decision whether a non-Government college will remain non-aided or will be taken on grant-in-aid depends on several other facts, such as whether the college has obtained permanent affiliation from the university concerned, whether it had completed 3 years satisfactory running of the college, whether it satisfies the requisite qualification etc. After considering all these facts, the State Government takes a decision for taking any college on grant-in-aid or not. In para 3 (e) it is stated that the State Government has not taken even a single degree/P. G. non-aided college on grant in aid since, 1996. In para 3 (f) it is stated that the State Government in view of its adverse financial position and as a matter of future policy decided vide Government order dated 21.8.2000 that no financial assistance shall be given to any non-aided college of the State. However, the State Government evolved a new self-financed scheme for these colleges under which these colleges may raise fee charges in accordance with the provisions of Government order dated 11.11.1997 and meet their expenses including salary bills of their staff members. The petitioners have already come under the self-finance scheme as per Government order dated 30.8.2000. Therefore, now the college is in a position to raise the fee charges and meet out all its expenses including the full salaries of the petitioners. The petitioners are not entitled to claim their salary from the State fund. The petitioners can claim from their own management to pay them full salary from the fund raised by the collection of fee.

4. In our opinion, since the petitioners institution has not been placed in grant-in-aid, this Court cannot issue any such direction as prayed for by the petitioners for payment of salary by the State Government. The State Government has its own financial difficulties and we cannot compel it to make payment to an institution, which is not on grant-in-aid. The writ petition is dismissed.