

(1987) 04 AHC CK 0034

In the Allahabad High Court

Case No : Writ Petition No. 4651 of 1983 (with connected Writ Petitions)

Ganga Datta Tripathi & Others

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 02-04-1987

Acts Referred:

Uttar Pradesh High School and Intermediate Colleges (Payment of Salary to Teachers and Other Staff) Act, 1971 — Section 2(b)

Citation : (1987) 04 AHC CK 0034

Hon'ble Judges : D.N.Jha, J and B.Kumar, J

Final Decision : Disposed Of

Judgement

D.N. Jha, J.—The dispute raised in these writ petitions lies in a very narrow ambit. The petitioners were working as teachers and employees in Junior High Schools, which subsequently, were raised to the status of High Schools. The petitioners being teachers and employees in the High Schools continued to discharge their duties. It has been averred that the petitioners have not been paid their salary and they filed these petitions to seek direction from the Court for the District Inspector of Schools to pay their salary in accordance with the U.P. High Schools and Intermediate Colleges (Payment of Salaries of Teachers and Other Employees) Act, 1971, hereinafter being referred to as, the Act.

2. We have heard the learned counsel for the petitioners and we are of the view that the dispute raised in these petitions stands concluded by the Full Bench decision of this Court in State of U.P. v. District Judge, Varanasi, 1981 UPLBEC, page 336. We find ourselves in agreement with the view expressed by the Full Bench. If an institution was not receiving any maintenance grant for the time being from the State Government, the teachers and employees of such institution would not be entitled to any relief under U.P. Act No. XXIV of 1971 (Supra). The perusal of various provisions clearly makes it apparent that the beneficent provisions of U.P. Act No, XXIV of 1971 can only be extended to the teachers and employees of such a recognised High School or Intermediate College which is receiving maintenance grant from the State Government, The

word "maintenance grant" has been defined under Section 2 (b) of U.P. Act No. XXIV of 1971. The learned counsel for the petitioners tried to impress upon us that this definition cannot be construed narrowly by reason of fact that teachers, who are imparting education in an institution, are entitled to salary and, therefore, the authorities can be directed to ensure payment of salary to the teachers. We are unable to subscribe to the submission because an institution can only be directed when the Government has control over it by issue of maintenance grant. Unless monetary assistance is being rendered by the State Government, it would be improper to authorise the authorities constituted under U.P. Act No. XXIV of 1971 to exercise financial control with respect to distribution of salaries to the teachers and employees. The financial liabilities are not correlated with supervisory jurisdiction. In our opinion, financial restriction can only be imposed when Government comes into picture and that is by way of providing maintenance grant. We have, therefore, no hesitation in observing that High School or Intermediate College, which is not receiving any maintenance grant from the State Government, the provisions of U.P. Act No. XXIV of 1971 would not be attracted. Simply on the ground that the Act being a beneficent piece of legislation, the teachers and employees of an institution which is not receiving maintenance grant would not be entitled to be paid salary by invoking the provisions of the U.P. Act No. XXIV of 1971. It would not be out of place to observe that in such eventuality as exists in the instant cases, the liability for payment of salary would rest on the Management and in exercise of supervisory jurisdiction of the institutions, the Inspector of Schools can ensure that Management pays salaries of the teachers and employees. If the petitioners who claim to be teachers and employees in the High Schools, are really discharging their duties, then it would be open to them to recover the salary by filing a suit in the court of law. It is further observed that the Government should, in the wider interest of the State, ensure that maintenance grant is paid to the institutions which have been ordered to be recognized by the Board of High School and Intermediate Education. It has been stated, although not categorically, that the institutions have applied for maintenance grant. If that is so, the Government will ensure that the question of payment of maintenance grant to the institution is disposed of expeditiously so that teachers and employees, who belong to the weaker Section, are not made to suffer indefinitely. If the Government has already issued directions for granting maintenance grants then it would not entail any further order,,

3. The learned counsel for the petitioner has vehemently urged that if the payment would not be ensured by virtue of U. P. Act No. XXIV of 1971 then the petitioners were entitled to receive their salaries by virtue of it being a Basic School; therefore, the Basic Shiksha Adhikari can be issued directions for payment of salary under the U.P. Junior High Schools (Teachers and Other employees Payment of Salaries) Act, 1978. We cannot subscribe to this view. A Basic School is different from a Junior High School of an Intermediate College. The same institution cannot be Called a Basic School or at the same time High

School or Intermediate College. In our opinion, each of the Institutions has a distinct legal entity. On a Basic School or a Junior High School being upgraded as a High School or an Intermediate College the legal entity of the Institution as Basic School or Junior High School, in our opinion, ceases to exist. Therefore, we are of the view that no direction as prayed can be issued.

4. In the light of observations made above, the petitions stand finally disposed of.