
(2015) 03 AHC CK 0086
In the Allahabad High Court
Case No : Special Appeal No. 169 of 2015

Hari Singh Rajput

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 25-03-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Intermediate Education Act, 1921 — Section 16-G, 16-G(7)

Citation : (2015) 3 ADJ 654 : (2015) 110 ALR 681 : (2015) 3 AWC 2322 :
(2015) 2 ESC 1220 : (2015) 3 SCT 146 : (2015) 2 UPLBEC 1362

Hon'ble Judges : D.Y. Chandrachud, C.J.; Pradeep Kumar Singh Baghel, J

Bench : Division Bench

Advocate : Rahul Jain, for the Appellant; Ram Kishor Gupta, Advocates for the Respondent

Final Decision : Disposed off

Judgement

1. The appellant had instituted a writ petition under Article 226 of the Constitution in order to challenge an order passed by the District Inspector of Schools on 9 December 2014, granting approval to his suspension under Section 16-G(7) of the U.P. Intermediate Education Act, 1921. The learned Single Judge dismissed the writ petition by the impugned judgment and order dated 9 February 2015. In the special appeal arising out of the judgment and order of the learned Single Judge, two submissions have been urged on behalf of the appellant; (i) no reasons were recorded by the District Inspector of Schools while granting approval; and (ii) the order of approval was passed without furnishing to the appellant an opportunity of being heard.

2. The appellant was an officiating Principal at the material time, of an Intermediate College. A three member committee was constituted by the District Magistrate to enquire into the allegation in regard to the irregularities in and the mis-utilisation of the fund meant for midday-meals in the institution. The Committee consisted of the District Inspector of Schools, Tehsildar and the Sub-

Divisional Magistrate. After the Committee submitted its report finding that the appellant was guilty of mis-utilisation and maladministration, the report of the Committee was forwarded by the District Magistrate to the District Inspector of Schools. The District Inspector of Schools, by a communication dated 7 November 2014, called upon the Management of the Institution to take further steps in accordance with law upon the enquiry report. On 16 November 2014, a resolution was passed by the Management to suspend the appellant. The Management moved the District Inspector of Schools on 4 December 2014 for his approval. The District Inspector of Schools granted his approval on 9 December 2014.

3. When the District Inspector of Schools considers whether to approve an order of suspension under Section 16-G of the Act, it is a well-settled principle of law that an opportunity of being heard ought to be granted to the teacher, the Principal and the Management. Moreover, it is also a well-settled principle of law that the District Inspector of Schools must pass a reasoned order indicating at least brief reasons for granting his approval or, as the case may be, disapproval to the suspension of a teacher (See: Committee of Management, Maharajganj Inter College v. District Inspector of Schools, 1999 (3) UPLBEC 1765). In the present case, *ex facie* the order of the District Inspector of Schools dated 9 December 2014, which was in question before the learned Single Judge, did not indicate any reasons.

4. The submission of the learned Senior Counsel appearing on behalf of the Management is that the order of the District Inspector of Schools referred to the enquiry which was conducted, and the recording of reasons must be construed having due regard to the facts and circumstances of each case.

5. We have duly perused the order of the District Inspector of Schools dated 9 December 2014. The first paragraph of the order contains only a recital of the fact that following the enquiry report, the Management had resolved on 16 November 2014 to place the appellant teacher under suspension and, accordingly, an application was submitted on 4 December 2014 for approval. The second paragraph of the order only contains his conclusion granting approval. Not even brief reasons were indicated in the order, which is totally bereft of any reasons whatsoever. Moreover, it is not in dispute that the appellant was not given an opportunity of being heard, which has been held to be required in the judgment of the Division Bench noted above.

6. In this view of the matter, we are of the view that the learned Single Judge was in error in dismissing the writ petition. What weighed with the learned Single Judge was that the order of the District Inspector of Schools noted that the enquiry report was taken into consideration before granting approval to the order of suspension. This, with respect, is an incorrect reading to the order of the District Inspector of Schools dated 9 December 2014.

7. For these reasons, we allow the special appeal and set aside the impugned

judgment and order of the learned Single Judge dated 9 February 2015. We set aside, in consequence, the order of approval granted by the District Inspector of Schools on 9 December 2014 and direct that the District Inspector of Schools shall pass a fresh order in accordance with law after furnishing to the appellant a reasonable opportunity of being heard. We however, decline to accede to the prayer of the appellant that the appellant should be reinstated in service pending a decision by the District Inspector of Schools.

8. Prima facie, at this stage, it appears that there are allegations of financial irregularities against the appellant and having due regard to the entire conspectus of facts, the prayer made on behalf of the appellant for reinstatement at the present stage cannot be acceded to. However, we direct that the District Inspector of Schools shall pass a fresh order within a period of three weeks of the receipt of a certified copy of this order, after furnishing to the appellant an opportunity of being heard. The special appeal is, accordingly, disposed of. There shall be no order as to costs.