
(2011) 04 AHC CK 0319
In the Allahabad High Court
Case No : Writ A. No. 19818 of 2011

Jagdeesh Prasad and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 11-04-2011

Acts Referred:

Citation : (2011) 04 AHC CK 0319

Hon'ble Judges : Sudhir Agarwal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sudhir Agarwal, J.—Petitioners have sought writ of mandamus commanding the Respondent No. 1 to consider representation moved by Petitioners for taking Sri Ram Krishna Bal Niketan, Pipraich, Gorakhpur a Junior Primary School, in grant-in-aid pursuant to judgment dated 21.9.2010 passed in Writ Petition No. 15429 of 1994.

2. Admittedly, the Junior Primary institutions are not being provided grant-in-aid by State Government under any statutory provisions. Petitioners have no relationship of employer and employee or otherwise with the State Government.

3. Moreover, Rule 4 of U.P. Basic Schools (Recruitment and Conditions of Service of Teachers and other Conditions) Rules, 1975, provides that in every recognised school adequate financial resources shall be made available by the management for efficient working of the school and reads as under:

4. Financial resources.—In every recognised school adequate financial resources shall be made available by the management of such school for its efficient working and adequate facilities shall be provided in accordance with such standard as may be specified by the Board for teaching the subjects in respect of which such school is recognised.

4. Learned Counsel for Petitioner could not show that in view of Rule 10 of 1975

Rules, Petitioner can claim a writ of mandamus compelling the employer to seek grant-in-aid from the Government. In *Oriental Bank of Commerce Vs. Sunder Lal Jain and Another*, the Apex court after referring to its earlier Judgments in *The Bihar Eastern Gangetic Fishermen Co-operative Society Ltd. Vs. Sipahi Singh and Others*, ; *Lekhraj Satramdas, Lalvani Vs. Deputy Custodian-cum-managing Officer and Others*, and *Dr. Umakant Saran Vs. State of Bihar and Others*, , observed as under:

There is abundant authority in favour of the proposition that a writ of mandamus can be granted only in a case where there is a statutory duty imposed upon the officer concerned and there is a failure on the part of that officer to discharge the statutory obligation. The chief function of a writ is to compel performance of public duties prescribed by statute and to keep subordinate Tribunals and officer exercising public functions within the limit of their jurisdiction. It follows, therefore, that in order that mandamus may issue to compel the authorities to do something, it must be shown that there is a statute which imposes a legal duty and the aggrieved party has a legal right under the statute to enforce its performance....

5. In absence of any legal right of Petitioners to seek such mandamus, I find no merit in writ petition. Dismissed.