

(2006) 08 AHC CK 0140

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 57304 of 2005

Kumari Krishna and Km. Rashmi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 24-08-2006

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2006) 7 AWC 6987 : (2006) 3 UPLBEC 2407

Hon'ble Judges : S.N. Srivastava, J

Bench : Single Bench

Advocate : Mohammad Ayub, for the Appellant; Dinesh Kumar Misra and S.C., for the Respondent

Judgement

S.N. Srivastava, J.—This writ petition has been preferred for the relief of a writ of mandamus directing the respondents to admit the petitioners to the Institution arrayed as respondent No. 4 in Class VI.

2. I have heard learned Counsel for the petitioners and also learned Standing counsel representing the respondent No. 4. I have also heard learned Standing counsel appearing for the State authorities.

3. The facts draped in brevity are that the petitioners having completed their 5th standard in the primary section of the college, had sought admission in 6th standard in the self-same college which they were denied on the ground that the college was meant of boys and further that there already exists a Higher Secondary school exclusively for girls namely, Smt. Ram Kori Kanya Uchhattar Madhyamik Vidyaley within the township of Ladu Khera Agra.

4. The learned Counsel for the petitioners canvassed that there is no girls school/college easily accessible to the girls in and around the area equipped with all requisite facilities at par with facilities available in the Inter College known as Shiv Shanker Lal Ram Raj Inter college and secondly that the girls Higher Secondary school namely Smt. Ram Kori Kanya Uchhattar Madhyamik Vidyaley

Ladu Khera is not a Government aided institution and further it is situated at a far off place. Per contra, learned Counsel representing the respondent No. 4, repudiated the aforesaid submission by stating that Smt. Ram Kori Kanya Uchhattar Madhyamik Vidyalay Ladu Khera is situated within Ladu Khera township itself and it is exclusively ear-marked for girls. It is further contended that as a matter of fact, the aforesaid girls college had taken serious exception to admission of girls in the boys college and in this regard, a peremptory direction was also issued by the District Inspector of Schools pursuant to which, the college respondent No. 4 denied further admission to girls students. Thus it would transpire that the admission was denied to the petitioners pursuant to directions of the District Inspector of Schools who issued peremptory direction to the respondent No. 4 drawing attention to Chapter 7 of the Calendar of the Board. The text of postulates contained in Chapter 7 of the Calendar of the Board is that girls students should not be allowed to get admission in boys colleges provided of course any girls college/school is not available in the same area and further that the subject in which a girl wants to pursue/prosecute her studies is not available in the said Girls Institution.

5. Having considered the matter in all its ramifications, I am of the view that the questions raised in this petition are disputed questions of facts which can more appropriately be gone into by the District Inspector of Schools and not by this Court in writ jurisdiction under Article 226 of the Constitution of India. No doubt, the submissions advanced by the learned Counsel for the petitioner that the Girls Higher Secondary School/college is situated at far off place and further it is not a Government aided college and also that the quality of education being imparted in the Girls Higher Secondary School is much inferior to the quality of education being imparted in the Inter college, is loaded with some substance but at the same time, there is nothing on record to lend support to the aforesaid submissions.

6. It brooks no dispute that the parents would prefer their daughters to be sent to the nearest college and further, to a college of repute equipped with all requisite facilities and in case the girls college as claimed by the learned Counsel for the petitioner is situated at far off place and further, it is ill-equipped with requisite facilities and also the quality of education being imparted in the said college is much inferior to the quality of education being imparted in the inter college, in that event, the denial of admission would amount to invidious discrimination to the petitioners. As stated supra, since, the points raised before the Court are disputed questions of facts and can more appropriately be gone into by the District Inspector of Schools the ends of justice would be best attained if the matter is remitted to the District Inspector of Schools for decision in the matter.

7. In the above perspective, it would be but proper if the matter is relegated to the end of District Inspector of Schools for decision afresh regard being had to the points articulated before this Court. In this connection, it would be open to

the petitioners to file fresh representation before the District Inspector of Schools within 15 days from today. In case any such representation is already lingering decision, the same may be supplemented further by the petitioners by bringing on record such further facts as may be found necessary. On receipt of such representation, the District Inspector of Schools shall pass appropriate orders in accordance with law within a period not exceeding 15 days from the date of receipt of certified copy of this order. The order that may be passed, must be informed with reasons.

8. As a result of foregoing discussion, the petition is disposed of accordingly in terms of above direction.