

(2010) 09 AHC CK 0370
In the Allahabad High Court

Kusum Sailesh, Principal, M.C.H.S.S.

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 21-09-2010

Acts Referred:

Citation : (2010) 09 AHC CK 0370

Hon'ble Judges : Shishir Kumar, J

Final Decision : Disposed Of

Judgement

Shishir Kumar, J.—Heard learned counsel for the petitioner and learned Standing Counsel.

2. By means of this writ petition, petitioner has sought writ in the nature of mandamus commanding the respondents to give registration forms to the petitioner's Institution forthwith for registering the students of ClassIX admitted in the year 2009 whose fees has already been deposited on 24.10.2009. Further, a writ of mandamus has been sought commanding the respondents to accept the registration forms of the petitioner's Institution as well as to accept the forms of Board Examination2011 of the students of petitioner's Institution of ClassX, so that they may appear in the Board Examination.

3. It appears that earlier various writ petitions were filed on the ground that the application forms for registration of the students have not been supplied by the Board due to the fact that the registration fees have been deposited after the expiry of the last date i.e. 1st October, 2009. It appears that the Board of High School and Intermediate Education has made a condition, which mentions that for the purposes of ClassIX and XI at the time of admission a registration certificate has to be obtained from the Board after depositing requisite fees. For that purpose, a cut of date i.e. 1st October of every year has been fixed. In the present case, the petitioner has deposited the requisite fees and the detail on 24th October, 2009 through treasury challan.

4. Learned counsel for the petitioner has placed reliance upon a judgment

rendered by this Court on 2nd July, 2010 in Writ Petition No.16404 of 2010 in which also the registration forms were not issued since the fees was deposited late on 6th October, 2009.

5. The said judgment is quoted below:

"Five Institutions, which are recognized under the provisions of the U.P. Intermediate Education Act, 1921, have filed this petition for a direction upon the respondent Board of High School and Intermediate Education, U.P. (hereinafter referred to as the "Board") to issue registration forms to the Institutions for the students of Classes IX and XI studying in the academic session 2009-10.

It is stated that the registration fees of all the students studying in the Institutions in Classes IX and XI were deposited in the treasury between 3rd October, 2009 and 6th October, 2009, but the registration forms were not supplied since the registration fees was deposited after the expiry of the last date, i.e., 1st October, 2009.

In this connection, Sri Ashok Khare, learned Senior Counsel appearing for the petitioners has placed before the Court the communication dated 14th November, 2009 sent by the District Inspector of Schools, Chandauli to the Director of Education wherein it has been stated that the nine Institutions mentioned in the letter including the petitioner Institutions had deposited the registration fees amount between 3rd October, 2009 and 10th October, 2009, even though the last date was 1st October, 2009. In paragraphs 23 and 24 of the writ petition, the petitioners have specifically stated that the registration forms of students studying in four Institutions were accepted even though the registration fees amount was deposited after 1st October, 2009.

All that has been stated in the counter affidavit filed by the respondent Board in answer to the averments made in paragraphs 23 and 24 of the writ petition is that the District Inspector of Schools has been asked to explain why the registration forms were accepted even though the registration fees amount was deposited after 1st October, 2009.

It is, therefore, clear that the Board itself has accepted the registration forms of the students studying in the four Institutions mentioned in paragraphs 23 and 24 of the writ petition even though the registration fees amount was deposited after 1st October, 2009. The Board cannot be permitted to adopt a different yardstick for the students of the petitioner Institutions since nothing has been brought on the record to show that the registration forms of the students of these four Institutions have been cancelled by the Board. Such being the position, a direction needs to be issued to the Board to issue the registration forms to the students of the petitioner Institutions so that the same can be filled and deposited.

The writ petition is, accordingly, allowed. The registration forms of the students studying in Classes IX and XI in the petitioner Institutions shall be issued so that they can be filled up and deposited. Since the date for deposit of the examination

forms of the students who are now studying in Classes X and XII has been announced, the Board shall issue the necessary registration forms expeditiously, preferably within a period of two weeks from the date a certified copy of this order is produced by the petitioners so that they can be deposited in time."

6. On the other hand, learned Standing Counsel has submitted that only to avoid future complications, a cut of date has been fixed for the purposes of facilitation that in case requisite registration fees has been deposited in time, then necessary formalities for the purposes of giving the facility to the students, who are going to appear in the Board's Examination, be done by the Board. If authority does not fix a cut of date, then there will be no end of depositing the registration fees and Institutions will deposit the registration fees at any point of time and then they will claim that they may be supplied the requisite forms for the purposes of registration of the students of ClassIX and XI. There is no dispute to this effect that the Board has to manage the examination about six months prior to holding the examination due to large strength of their students, therefore, if such things are permitted beyond a period of limitation which is fixed by the Board, then respondent will not be in a position to hold the Board's Examination properly, therefore, the forms submitted by the petitioner's Institution may be rejected and that cannot be accepted in view of the Regulation of Madhyamik Shiksha Parishad, Uttar Pradesh. Further, learned Standing Counsel states that sometime it is happening that the students are being registered after the cut of date, but actually the students are not available. Only to remove this problem, the Board has issued a circular / order dated 9th July 2010 specifically stating therein that in case the requisite forms have not been deposited due to any reason, the Institutions have been directed to complete the formalities within a period of one week with list of students and I.D. proof of their parents and the same should be made available to the respective District Inspector of Schools. According to the learned Standing Counsel, order issued by the Board will facilitate the genuine students who wants to appear in the Board's Examination either in ClassIX or ClassXI of the respective years.

7. Sri Shailesh Pandey, learned counsel for the petitioner states that petitioner's Institution will submit the relevant papers with I.D. proof of parents of those students before the District Inspector of Schools within a period of two weeks and if the requisite documents has not been produced before the D.I.O.S., the respective D.I.O.S. will be at liberty to reject the application.

8. In such circumstances, I am of the opinion that this writ petition can be disposed of finally directing the petitioner that in view of the letter dated 9th July 2010, the Institution of the petitioner may complete the formalities within a period of two weeks. The District Inspector of Schools will be at liberty that in case there is any defect or proper identification of the parents of students have not been furnished he can reject those documents. The District Inspector of Schools, if satisfied, he will send all the requisite papers to the Secretary, respondent no.4 within a period of two weeks.

9. The writ petition is disposed of accordingly.

No order as to costs.