

**(2003) 05 AHC CK 0071**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 8290 of 1998**

Nasiruddin Siddiqui and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

**Date of Decision :** 07-05-2003

**Acts Referred:**

Uttar Pradesh High Schools and Intermediate Colleges Act, 1997 — Section 5  
Uttar Pradesh Junior High School Act, 1978 — Section 4, 5

**Citation :** (2003) 6 AWC 5560

**Hon'ble Judges :** Rakesh Tiwari, J

**Bench :** Single Bench

**Advocate :** Ashok Kumar, for the Appellant; O.P. Singh, S.C., for the Respondent

**Final Decision :** Allowed

## **Judgement**

Rakesh Tiwari, J.—Heard.

2. The Basic Shiksha Adhikari by order dated 6.11.1997, stopped the salary of the Petitioners, which was being paid to them under the provisions of U.P. Junior High School (Payment of Salary to Teachers and Other Employees) Act, 1978 on the ground that the institution has been raised to High School. According to Government Order dated. 7.11.1988, Annexure-V to the writ petition if a non-Government or Private Junior High School is upgraded, it goes beyond the provisions of Payment of Salaries Act, 1978, and are only entitled to same amount under the Education Manual till the institution is brought on under the U.P. High School and Intermediate College Act, 1997, under which proposal be sent to the Government. The D.T.S. Higher Secondary School was a Junior High School. The School was brought on grant-in-aid by the G.O. dated 29.3.1982 and was raised/recognised as High School by the order of Additional Secretary, Board of High School and Intermediate Education dated 19.8.1994. The recognition of the school was as Vitta-Viheen (without financial aid). As a consequence thereof no post had been sanctioned at the High School level and the requirement is met by the Management from its own sources. The teachers for High School have

been appointed u/s 7AA of the Intermediate Education Act, 1921. It is alleged that all the Petitioners were appointed in the institution, when the institution was merely a Junior High School. Their appointments were approved by the Basic Shiksha Adhikari and they were getting their salary from the Government in accordance with the provisions/procedure under the U.P. Junior High School (Payment of Salary to Teachers and Other Employees) Act, 1978 (U.P. Act No. 6 of 1979) which they continued to get over subsequent to the grant of recognition of the institution in 1994 as a High School, till June, 1997.

3. The controversy of the present writ petition is covered by the judgment and order dated 9.2.1993 passed by this Court in Writ Petition No. Nil of 1993 Habiburrahman Siddiqui and Ors. v. State of U.P. through Education Secretary, Civil Secretariat, Lucknow and Ors.. Since the Petitioners were the employees of Junior High School, who were being paid their salary under U.P. Act No. 6 of 1979.

4. In view of the aforesaid reasons, the Respondents are directed to make payment of the arrears of salary of the teachers and other employees of the institution and also their future salary as and when it falls due in accordance with the provisions of the U.P. Junior High School (Payment of Salary to Teachers and Other Employees) Act, 1978, (U.P. Act No. 6 of 1979) till the institution is covered under the provisions of U.P. Act No. 24 of 1971.

5. With the aforesaid directions, the writ petition is disposed of.