

(2009) 08 AHC CK 0267

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 44477 of 2009

Pradeep Rai

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 28-08-2009

Acts Referred:

Citation : (2009) 08 AHC CK 0267

Hon'ble Judges : R.A. Singh, J; Ashok Bhushan, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Heard learned Counsel for the petitioner and Sri M.C. Chaturvedi, learned Chief Standing Counsel for the respondents.

2. By this writ petition the petitioner has prayed for a writ of mandamus directing the respondents to open the locks and seal affixed on main gate and doors of class rooms of institute by the respondents No. 4,5 and 6.

3. Petitioner's case in the writ petition is that after the allotment of the premises by order dated 27.3.2002 passed by the District Magistrate Ballia, the society has established a institute namely Dr. Ganeshi Prasad Institute of Information Technology, Civil Lines Ballia. It is submitted that the said institute is recognised by Ministry of Information Technology and at present 350 students in the computer course are studying in the university, which is recognised by U.P. Rajarshi Tandon Open University. The allegation in the writ petition is that on 17.8.2009, the respondents No. 4 to 6 came with police force and sealed the premises. The petitioner has brought on record a copy of admit card, issued to one of the students informing that examination is to commence from 29.8.2009 for O/PR Level which is to be conducted by DOEACC Society an autonomous body of Department of Information Technology Ministry of Communications & Information Technology, Government of India. Learned Counsel for the petitioner submits that in view of the sealing of the premises, the students' future has

come to jeopardy. It is further contended that no notice or opportunity was received by the petitioner, who is principal of the institution before sealing of the premises.

4. Learned Chief Standing Counsel submits that the allotment which was in favour of the society has been cancelled on 15.5.2009 by order of the Collector. A copy of the said order has been produced before us. A perusal of the order indicates that on the request made by Secretary, Shahid Smarak Trust, who is none else but the District Magistrate, the order has been passed. The petitioner has categorically stated that the petitioner has been neither served nor informed of the order dated 15.5.2009 and for the first time, it has been shown in the Court. Learned Counsel for the petitioner prays time to file amendment application to challenge the order dated 15.5.2009. Learned Chief Standing Counsel may supply a copy of the order dated 15.5.2009 on counsel for the petitioner.

5. The District Magistrate in the matter has acted in haste without informing other persons specially when the institution was being run in the premises. For protecting interest of the students, we are prima facie satisfied that the lock of the premises be opened and examination be permitted to be conducted which is according to the petitioner is to commence from tomorrow and will come to an end on 2.10.2009. Three days" time is allowed to the petitioner to file Amendment Application. Sri Chaturvedi submits that matter may be taken up on 1.9.2009 as fresh.

6. As prayed put up on 1.9.2009 as fresh by which date, the respondents may file affidavit if, they so desire.

7. In the meantime, we direct that the seal which has been put on the premises on 17.8.2009 be opened and examination be permitted to be held.

8. Let a certified copy of this order be issued to the learned Counsel for the parties on payment of usual charges today.