
(2010) 07 AHC CK 0158
In the Allahabad High Court

Ram Chandra Yadav and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 19-07-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 07 AHC CK 0158

Hon'ble Judges : Anil Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Anil Kumar, J.—Matter is taken in the revised cause list.

2. None appeared on behalf of the petitioner.

3. Heard Sri Rahul Jain, learned Counsel appearing on behalf of the respondent No. 5 and learned Standing Counsel on behalf of the official respondents.

4. Sri Rahul Jain, learned Counsel for the respondent No. 5 submits that the Institution known as Bhartiya Uchchatar Madhyamik Vidyalaya, Rajawari District Gorakhpur (hereinabove referred to as the Institution) governed by the provisions as provided under U.P. Intermediate Education Act, 1921 (hereinafter referred to as the Act) in which the the petitioner No. 1 (Sri Ram Chandra Yadav) at the time to filing of the present petition was working on the post of L.T. Grade Teacher, petitioner No. 2 (Rama Shankar Pathak) on the post of Assistant Teacher (Primary Section) and petitioner No. 3 (Sri Ram Prasad Upadhyaya) on the post of officiating Principal at the time of filing of the the present writ petition and main prayer as prayed by them is as under:

1. a writ, order or direction in the nature of certiorari quashing the decision taken by the Regional Level Committee dated 28.7.2005 (Annexure No. 17 to the writ petition).

2. a writ, order or direction of suitable nature commanding the respondents to

remove the irregularities by appointing an independent authority as Authorised Controller to conduct an enquiry and to take a decision in pursuance thereof.

5. He further submits that during the pendency of present writ petition Sri Ram Chandra Yadav (petitioner No. 1) had retired from service after the attaining the age of superannuation.

6. Learned Counsel for the respondent submits that the petitioner have neither any right or locus to file the present writ petition thereby claiming the abvoesaid reliefs, as they have no right to challenge the election of the Committee of Management and appointment of authorized Controller.

7. It is further submitted by learned Counsel that during the pendency of the writ petition the tenure of the Committee of the Management has expired and in support of his argument he rely on the judgment of this Court in the case of Association of Teachers and other Staff and Anr. v. State of Uttar Pradesh and Ors. 2006 (6) ALJ (NOC) 1276 (ALL.).

8. I have heard learned Counsel appearing on behalf of respondent No. 5, learned Standing Counsel and perused the record.

9. Admittedly, in the present case, the petitioners at the time of filing of the writ petition are working in different capacity in the Institution i.e. L.T. Grade Teacher, Assistant Teacher (Primary Section) and Officiating Principal, thus they have no right or locus to claim the relief as claimed by them by means of the instant writ petition in view of the facts and pleadings as made by them in the writ petition. Accordingly, they are not entitled for any relief by this Court while exercising the power under Article 226 of the Constitution of India.

10. Further in the case of Association of Teachers and other Staff and Anr. v. State of Uttar Pradesh and Ors. 2006 (6) ALJ (NOC) 1276 (ALL.) this Court has held that teachers and employees of institutions governed by U.P. Intermediate Education Act and who are under direct control of committee of Management, cannot file writ petition for supersending management. Any dispute or cause of action in matter of service arisen on account of decision taken by management if illegal, Teachers and Employees may challenge before appropriate authority or Court in accordance with law.

11. For the foregoing reasons, the present writ petition lacks merit and is accordingly dismissed.

12. No order as to costs.