

(1997) 11 AHC CK 0104
In the Allahabad High Court
Case No : C.M.W.P. No. 9412 of 1989

Ramesh Chandra Yadav and others

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 22-11-1997

Acts Referred:

Citation : (1998) 2 AWC 1382

Hon'ble Judges : O.P. Jain, J;D.S. Sinha, J

Bench : Division Bench

Advocate : I.N. Singh, for the Appellant;

Final Decision : Allowed

Judgement

D.S. Sinha and O.P. Jain, JJ.—Heard Sri I. N. Singh, learned counsel appearing for the petitioners and Sri O. P. Singh, learned standing counsel representing the respondent Nos. 1, 2, 3, 4 and 5. The respondent No. 6 has not responded to the notice Issued by the Court.

2. The petitioners, who are either teachers or employees of Sri Ram Uchhattar Madhyamik Vidyalaya, Para, Post-Kandaur-via-Kurara, district Hamirpur, the Committee of Management of which is respondent No. 6 in this petition, [hereinafter called the Institution), feel aggrieved by the order dated 12th April, 1989, passed by the Accounts Officer, office of the Zila Basic Shiksha Adhikari, Hamirpur, the respondent No. 5, a copy whereof is Annexure-3 to the petition. By this order, the respondent No. 5 has declined to pay the salaries and other emoluments to the petitioners, in view of the fact that the Institution had been accorded permission to start High School Classes vide order dated 4th April, 1989 with effect from 1st March, 1989, and as such the teachers and the employees of the Institution have ceased to be within the purview of the Uttar Pradesh Junior High Schools (Payment of Salaries of Teachers and other Employees) Act, 1978, (U. P. Act No. 6 of 1979), hereinafter referred to, as the Act). Aggrieved by the order dated 12th April, 1989. aforesaid, the petitioners

have instituted this petition in this Court praying for quashing of" the same besides praying for issuance of writ, order or direction in the nature of mandamus commanding the respondents to pay to them at least such salaries and emoluments as they were getting at the time of upgradation of the Institution including the arrears since March, 1989 until the Institution is brought within the purview of Uttar Pradesh High Schools and Intermediate Colleges (Payment of Salaries of Teachers and other Employees) Act. 1971. (U. P. Act No. 24 of 1971). They have also prayed for issuance of writ of mandamus commanding respondent Nos. 1, 2 and 3 to bring the Institution within the purview of U. P. Act No. 24 of 1971 by giving it maintenance grant to the level of Higher Secondary Schools, but the learned counsel appearing for the petitioners does not press this relief.

3. The respondents have not filed any counter-affidavit. Therefore, the facts stated in the petition remain uncontroverted.

4. In support of the relief claimed by the petitioners, their learned counsel places reliance upon a Division Bench decision of this Court dated 24th October, 1989 rendered in Sri Deo Murti Shukia and others v. State of U. P. and others, Civil Misc. Writ Petition No. 21602 of 1987. By this judgment, this Court had granted to the petitioners relief similar to the one being prayed by the petitioners in this petition.

5. After hearing the learned counsel for the parties and upon examination of the averments made in the petition, the Court is of the opinion that the facts and circumstances of the instant case are almost Identical to the facts and circumstances of the case of Sri Deo Murti Shukia and others v. State of U- P. and others (supra). Sri O. P. Singh, learned standing counsel representing respondent Nos. 1 to 5 also very fairly concedes this position. Therefore, he does not dispute that this petition has got to be allowed and the petitioners ought to be granted reliefs claimed by them.

6. Accordingly, the petition succeeds and is allowed. The impugned order dated 12th April, 1989 (Annexure-3 to the petition) is quashed and the respondent Nos. 1 to 5 are directed to pay to each of the petitioners their salary and other emoluments with effect from 1st March, 1989 within a period of two months, to be computed from today. The payment shall also include the salary till 31st December, 1997. The respondents shall pay to each of the petitioners their salary and other emoluments regularly with effect from 1st January. 1998 and onwards. The payment shall be made under the provisions of the Act (U. P. Act No. 6 of 1979). There is no order as to costs.