
(2010) 04 AHC CK 0164

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 22822 of 2010

Shivani Yadav and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 26-04-2010

Acts Referred:

Citation : (2010) 04 AHC CK 0164

Hon'ble Judges : Arun Tandon, J

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Petitioner no. 4 is the association of persons working as Guest Teachers for vocational courses run under an scheme sponsored by the Central Government in aided and recognized Intermediate Colleges. Petitioners no. 1 to 3 are members of the said association and claimed to be working as vocational subject teachers in the Intermediate Colleges under the said scheme. Petitioners are aggrieved by the order dated 07.04.2010 which in turn refer to an earlier Government Order dated 26.02.2010. Under the scheme floated by the State Government, payment to vocational subject experts is made on per lecture basis subject to the maximum of Rs.10000/ per month. The petitioners are aggrieved by Clause IV of the notification dated 07.04.2010 which in turn refers to Government Order dated 26.02.2010 and provides that if subject teacher is imparting education to Class XI and XII separately then he would be entitled to one maximum of Mandey only i.e. Rs.10,000/ per month and in no case two Mandey at the maximum of Rs.10,000/ are to be paid to a vocational teacher.

2. Counsel for the petitioners challenging the aforesaid notification dated 07.04.2010 submits that since they are teaching Class XI & XII under the orders of the management of the institution, they are entitled for two Mandey. It is submitted that the State Government cannot restrict payment of one Mandey only, as the funds are in fact released by the Central Government, therefore, the restriction placed under the notification/Government Order is without authority.

3. I have heard Shri Ashok Khare, Senior Advocate assisted by Shri S.K.Rai,

Advocate for the petitioners and the Standing Counsel for the respondents.

4. The scheme floated by the State Government under the funds allocated by the Central Government is for the purposes of providing vocational training to the students who are already admitted as regular students in various aided and recognized Intermediate colleges. No cadre for vocational teaching has been created. The scheme is regulated by the Government Orders. The State Government has decided that teachers appointed for imparting education to Class XI and XII, would be paid on per lecture basis subject to the maximum of Rs.10,000/ per month irrespective of the total number of periods actually taught.

5. In the opinion of the Court, such clause added by the State Government does not violate any statutory provision. The State Government having regard to the maximum fixed has rightly clarified that a teacher imparting education in an institution as Vocational Subject Expert will get the maximum prescribed irrespective of the fact as to whether he/she is teaching Class XI or XII or both inclusive. So far as payment of Mandey is concerned, total number of periods taught are of no consequence after the maximum of Rs.10,000/ per month is reached.

6. This Court is of the opinion that the State Government has decided payment of one Mandey only to one vocational teacher which in turn would provide employment to the maximum number of persons possible. This Court finds no good ground to interfere with the decision of the State Government as disclosed under the Government Order dated 26.02.2010 and as explained under notification/Government Order dated 07.04.2010.

7. Counsel for the petitioners submits that under the letter/circular of the Director of Education dated 26.02.2005 it is provided that there is no restriction of teaching in two different institutions. Therefore, there should not be any bar on payment of two separate Mandey to a teacher imparting education to Class XI & XII separately in the same institution. The letter of Director relied upon by the counsel for the petitioners is wholly irrelevant for adjudicating the controversy raised. As already noticed above, payment per lecture basis subject to the maximum of Rs.10,000/ is to be paid to a teacher who imparts education to Class XI or Class XII or both, in the same institution inasmuch as number of periods are not to be taken into consideration after the maximum of the Mandey is reached.

8. Counsel for the petitioner lastly placed reliance upon Section 9(4) of the Intermediate Education Act, 1921 which confers the power upon the State Government to issue Government Order which according to him will have statutory force and with reference to Chapter XIVA of the regulations framed under the Intermediate Education Act which provides for vocational training being imparted to the students in Intermediate Colleges qua subjects detailed therein, it is claimed that the appointment of vocational teachers is statutory and results in creation of a cadre.

9. None of the aforesaid regulations provide for the creation of post of vocational teachers in recognized and aided Intermediate Colleges, the power whereof is with the Director under Section 9 of the U.P. Act No. 24 of 1971.

10. There is no separate cadre of vocational subject teachers for intermediate colleges nor the competent authority has sanctioned post referable to Section 9 of U.P. Act No. 24 of 1971. Payment of salary etc. to the vocational subject experts is admissible according to the Government Orders only.

11. Since this Court has come to the conclusion that the Government Order/ notification restricting payment of two separate Mandays to one person for teaching Classes XI and XII in the same institution is just and reasonable, irrespective of the fact that they are imparting education to Class XI & XII separately or jointly, no case for interference under Article 226 of the Constitution of India is made out.

12. At this stage counsel for the petitioners submits that the petitioners had taught two separate classes XI & XII, therefore, payment of two Mandays for the period prior to 26.02.2010 should be made separately as the Government Order dated 26.02.2010 is prospective in nature.

13. Standing Counsel on behalf of the State points out that the Government Order was issued on 29.03.2009 restricting the payment of Mandey to the maximum of Rs.10,000/ and the Government Order dated 26.02.2010 as well as notification dated 07.04.2010 are only clarificatory in nature and explain the intent of the original Government Order providing for payment under the scheme i.e. maximum of Rs.10,000/ per month to a vocational teacher.

14. In the opinion of the Court the contention raised on behalf of the Standing Counsel has force, therefore, the prayer for grant of two Mandays for the period prior to 26.02.2010 has also to be rejected.

15. Counsel for the petitioner has preferred to an interim order which is not binding upon the Court inasmuch this Court is deciding the writ petition finally.

16. Writ petition is dismissed.