
(2006) 03 AHC CK 0236
In the Allahabad High Court
Case No : Civil Misc. Writ No. 17408 of 2006

Smt. Indira Devi	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 29-03-2006

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Basic Education Act, 1972 — Section 10, 11, 11(1)

Citation : (2006) 4 AWC 3521

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : L.P. Singh, for the Appellant;

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard counsel for the petitioner and perused the record.

2. It is alleged that Society Sri Kalicharan Shiksha Samiti village Rampur P.O. Bhangara, Aligarh was registered which runs Kali Charan Kanya Primary School recognized by Basic Shiksha Adhikari. The school has been granted temporary status up to Junior High School.

3. The petitioner is aggrieved by the order passed by the Basic Shiksha Adhikari, Aligarh by which he has permitted for opening of a new Junior High School in village Rampur under Sarva Shiksha Yojana 2005-2006.

4. The petitioner submitted an application/objection to the District Magistrate inter-aila, that the State Government has approved of opening of Junior High School in rural areas in villages where there is no Junior High School in the radius of 3 kms i.e. which are unserved villages but in village Rampur the society of the petitioner is already running the aforesaid Junior High School since 1998. It is urged that the proposal of the B.S.A. to open a Junior High School in village Rampur t as unserved village is incorrect.

5. The counsel for the petitioner has relied upon Sections 10 and 11 of the U.P. Basic Education Act, 1972. Section 10 of the Act provides that power vests in Zila Panchayat to open Basic School in the district. According to this Section Zila Basic Shiksha Samiti have powers to perform the functions regarding administration of Basic Schools. According to Clause (a) of Section 10 of the aforesaid Act the Zila Panchayat shall prepare schemes for the development and improvement of Basic Schools in the rural areas of the district. Section 11 of the Act provides the right to earmark the land and place for construction of new Basic School vests in Zila Basic Shiksha Samiti. Clause (d) of Sub-section 1 of Section 11 provides that the Gram Shiksha Samiti shall perform the function to make suggestions to the Zila Panchayat for the improvement of Basic Schools, buildings and the equipment thereof.

6. The contention of the counsel for the petitioner that opening of a new Junior High School in Rampur village is contrary to the aforesaid Sections 10 and 11 of the U.P. Basic Education Act, 1972. He has urged that as public interest litigation he can approach this Court for stopping of opening of new Junior High School because it would be wastage of public money and if the new Junior High School is opened, the school of the petitioner will suffer loss of students because the population of village Rampur is about 800 only.

7. It appears from the record that Gram Panchayat Rampur in its meeting held on 15.2.2006 has already passed a proposal for construction of Junior High School on vacant portion of plot No. 69.

8. It has been repeatedly held by the Hon''ble Supreme Court in a catena of decisions as well as the High Courts that the government should try to impart free education to as many children of this country as possible and that every child has right to be educated. The petitioner is an interested party and he has not filed this writ petition in public interest. There is nothing in Sections 10 and 11 of the aforesaid Act, which may debar opening of a new Junior High School and the petitioner has filed this petition in his selfish interest for restraining the government from opening a new Junior High School under its Scheme Sarva Shiksha Yojna (education to all).

9. For the reasons stated above, it is not a fit case for interference under Article 226 of the Constitution of India. The petition is dismissed. The concerned authorities shall endeavour to construct and open the Junior High School in Gram Panchayat Rampur at the earliest.