

(2011) 08 AHC CK 0073

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 14824 of 2001

Smt. Pramila Singh and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 04-08-2011

Acts Referred:

Citation : (2011) 08 AHC CK 0073

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Judgement

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

2. Claim of the the Petitioners, who are teachers in primary section of the Institution, to place the primary section of the institution under purview of the U.P. High School and Intermediate College (Payment of Salaries of Teachers and other Employees) Act 1971, has been rejected by the impugned order dated 2.2.2001 passed by Respondent No. 1. The Petitioners have prayed for quashing of the aforesaid order dated 2.2.2001 and further a writ in the nature of mandamus commanding the Respondents to bring the primary section of the institution under the purview of the aforesaid Act.

3. The controversy involved in this petition has been considered and decided in writ petition No. 6841 of 1993, Committee of Management, Field Marshal General Hathia garh Uchchattar Madhyamik Vidyalaya, Deoria and Anr. v. Director of Education, U.P., Allahabad and Ors. decided on 7.1.1993, copy of which has been appended as annexure No. R.A.-2 to the rejoinder affidavit. Relevant extract of the aforesaid judgment is thus:

College was initially a Junior High School which was granted temporary recognition in 1978 by the Basic Shiksha Adhikari. In 1978 it was granted permanent recognition. In 1982 the college was recognised for High School and it was in January 1982 that it has been recognized for Intermediate classes also. With effect from January 1991 the maintenance grant has been approved for the

college by the State Government. The primary section of the college from class I to v. is aided to or attached to it right from the beginning when it was junior high school and has continued to be the part till date.

In September, 1990 Petitioners made applications before the Respondents for grant of protection of the Act to the teachers and other employees of the college working in its primary section. No. action having been taken a writ petition was filed by the Petitioners before this Court which was disposed of with the direction to decide Petitioners' representation and in pursuance thereof the Director of Education vide order dated 21.1.1991 has rejected the Petitioners prayer for extending the Act to the teachers and other employees of the primary section of the college on the ground that primary section was attached to junior High School and not to the High School prior to 1973, as the college was granted recognition as high school in 1982 only. In the counter affidavit also said stand has been reiterated by the Respondents. In support of its stand the Respondents have filed the orders of the government dated 21.8.1973 and 6.9.1989 as annexure No. 1 and 2 to their counter affidavit. In its first letter of 21.4.1979, it has been observed that hence forth the permission for attaching primary section to higher secondary institution shall not be granted. By the second letter dated 6.4.1989 the Government had granted permission for payment of salary under the Act of the teachers and other employees of primary section of 393 intermediate college.

In the instant case, it is admitted that primary section of the college was attached to it right from 1971 but at that time the college was a junior high school and the recognition as high school only mentioned hereinbefore, the college is duly recognized now as intermediate college and its primary section was attached to it right from 1971 and it is the same college which is continuing even today with higher status. It is on account of this reason that the District Inspector of Schools has by his letter dated 29.10.1990 made a wrong recommendation in favour of the college so as to enable the teachers and the employees of the primary section of the college to get their salary under the Act. The Assistant District Inspector of Schools after the inspection submitted a similar report in favour of the Petitioners. It is true that the Government by its letter dated 21.6.1973 has directed that primary section of higher secondary institution will not be permitted to be attached to them for payment of salary after the date of that letter namely 21.4.1979 but the Government itself by its letter dated 6.9.1989 has granted such a recognition to 393 higher secondary institutions, whereby the benefit of the Act has been extended to the teachers and other employees working in primary sections of those institutions. As mentioned herein above the primary section was attached to the college right from 1971 and there is No. prohibition in any of the aforesaid Government Orders against giving benefit of the Act to the primary section of the college. The basis on which the benefit of the Act has been denied to the primary section of the college.

The writ petition is allowed with costs. The orders of the Director of Education dated 21.1.1991 is quashed. The Respondents are directed to pass appropriate order on the application of the petitions for grant of protection of the Act to the teachers and other employees of the primary section of the college within a period of three months from the date of presentation of a certified copy of this order.

4. Learned standing counsel as well as counsel for the Petitioner agree that matter in issue involved in the present petition is squarely covered by the aforesaid judgment.

5. Accordingly, the impugned orders 2.2.2001 appended as annexure No. 11 to the writ petition as well as order dated 9.12.2004 impugned in the connected petition No. 10578 of 2005, are quashed and the present petitions are disposed of in terms of the aforesaid judgment dated 7.1.1993 in writ petition No. 6841 of 1993, Committee of Management, Field Marshal General Hathia garh Uchchattar Madhyamik Vidyalaya, Deoria and Anr. v. Director of Education, U.P., Allahabad and others. No. order as to costs.