
(2015) 03 RAJ CK 0175

In the Rajasthan High Court

Case No : Special Appeal (Writ) Nos. 317, 331 and 332/2010 and 158 of 2012

State of Rajasthan and Others

APPELLANT

Vs

Kishan Gopal and Others

RESPONDENT

Date of Decision : 12-03-2015

Acts Referred:

Constitution of India, 1950 — Article 21, 309

Citation : (2016) 1 RLW 1

Hon'ble Judges : Ajay Rastogi, J;J.K. Ranka, J

Bench : Division Bench

Advocate : Rajendra Prasad, Additional Advocate General, for the Appellant;
Anoop Dhand and Vijay Jangid, Counsel, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Ajay Rastogi, J.

1. Since all the special appeals are based on the same facts and law and filed against the self same judgment passed by the Id. Single Judge dt. 13.11.2009, with the consent of the parties are being disposed of by the present judgment.

2. Three original writ petition Nos. 9221/2007, 13154/2008 and 3432/2008 were filed by the employees of Shri Parasrampuriah Rajasthan Ayurveda College Samiti and at the same time another writ petition No. 7966/2007 was filed by the Institution itself before the Id. Single Judge. The employees, in their writ petitions, commonly prayed as under:--

"Hence prayed that Your Lordships may graciously be pleased to accept and allow this writ petition and further pleased to direct the respondents to absorb the services of the petitioners in Government service or in Rajasthan Ayurved University against the vacancies available and in alternative direct the respondent Nos. 1 and 2 to take over the management of the Parasrampuriah Ayurved College and run this college in the interest of students and in the interest of the petitioners."

3. At the same time, the institution also preferred a writ petition No. 7966/2007 and prayed therein as under:--

"It is, therefore humbly prayed that your Lordships may graciously be pleased to allow this writ petition with cost and by an appropriate writ, order or direction:

(i) Ask and direct the respondent staff to resume the teaching work and hospital activities forthwith and do their agitation if they like in such a manner so that the teaching work and hospital activities are not jeopardizes and stopped.

(ii) Also ask and direct the respondent authorities to take all possible steps so that the teaching work and hospital activities of the petitioner society may be continued.

(iii) Pass any other appropriate writ, order or direction, which this Hon"ble Court may deem just and proper in the facts and circumstances, in favour of the petitioner."

4. Briefly stated, the facts are that the respondents are members of teaching faculty/employees working as Professor, Lecturer, LDC and Class-IV employees of Shri Parasrampuria Rajasthan Ayurvedic College (for short "the Institution"), aided Institution receiving 80% grant-in-aid from the Government run by Shri Parasrampurai Rajasthan Ayurveda College Samiti (for short "the Samiti") and preferred writ petitions claiming the relief of payment of arrears of salary and regular monthly salary and at the same time, the Samiti also preferred writ petition seeking directions against the employees to resume the teaching work and hospital activities forthwith by calling off their agitation.

5. The Institution was established way back on 19.12.1942 in the name and style of Rajputana Ayurveda College, Sikar and on 04.03.1963 the Samiti was registered under the provisions of the Rajasthan Societies Registration Act, 1958 and Professors, Lecturers, LDC and Class-IV employees were appointed subsequently and working since more than 20 years and hospital activities are also being carried out.

6. As it reveals from the record that during the period 1997-2005, lot of correspondences took place between the Institution and the State Government for taking over the Institution and merging it in government college but nothing fruitful came forward, the Institution is receiving 80% grant-in-aid from the Government under the Rajasthan Ayurved Grant-in-Aid Rules, 1972 (in short "the Rules, 1972"). The scheme pertains to grant aid to the Non-Government Ayurved, Unani, Naturopathy, Homeopathy and other indigenous alternative medicinal Educational Institutions, reference to Rules, 1972 will be made at a later stage in detail.

7. There was some on-going dispute between the staff and the management of the Institution and, as alleged, because of non-payment of salary to the staff/employees as they were demanding their fixation in 5th Pay Commission and all other benefits which are available to a Teacher/ Government Employee, the staff

went on strike and there was a stalemate did not report on duty and at this stage, the Rajasthan Ayurveda University, Jodhpur, with which the Institution was affiliated, intervened in the matter and held a meeting on 14.05.2008 which was attended by representatives of Teachers, Management and Principal of the institution and it was resolved to recall the on-going long strike of 8 months and resume the work from 15.05.2008. At the same time, the Council of Indian Medicine vide its order dt. 06.09.2008 took decision to transfer the existing students to other two private Ayurvedic Colleges so that for the chaos which has been created because of non-fulfillment of the demands, which for one or the other reason could not be meted out, at least the students who are not at fault should not suffer and the Institution is lying closed for the last 3 to 4 years.

8. At one stage, the question arose either to take steps for privatization of Shri Parasrampuria Rajasthan Ayurved College, Sikar or to appoint an Administrator because of the on-going dispute between the management and employees of the Institution and administrative problems but the State Government firmly came forward with the decision that there is no provision of appointing Administrator under the Rajasthan Ayurved Grant-in-Aid Rules, 1972 and stopped the grant-in-aid to the Institution.

9. The employees' emphasis was that since the Rules, 1972 have now been replaced by the Rajasthan Non-Government Educational Institution Act, 1989 and the Rules, 1993 framed thereunder, in exercise of power u/S.43 of the Act, 1989 which empowers the State Government to appoint Administrator and take over management of the Institution where it appears that managing committee of any recognized Institution has neglected to perform any of the duties assigned to it by or under the Act or the Rules framed thereunder u/S.10 of the Act, 1989 and to protect service conditions to the employees.

10. Pending litigation, the Id. Single Judge vide order dt. 17.12.2008 granted liberty to the writ petitioners to file representation before the State Government with further direction to the State Government that the representations so filed may be decided within a period of one month and the decision be placed before the court in sealed cover and the Additional Advocate General appearing for the State, on instructions, submitted on 22.01.2009 that the provisions of the Act, 1989 and Rules, 1993 framed thereunder are not applicable to the present Institution which is receiving aid under the Rules, 1972 and there is no provision for appointment of Administrator under the scheme 1972.

11. The legal question arose for consideration is as to whether the Ayurvedic Institutions which are receiving aid under the Rajasthan Ayurved Grant-in-Aid Rules, 1972 are entitled to seek protection of provisions of the Act, 1989 and Rules, 1993 framed thereunder.

12. The Id. Single Judge after examining the scheme of the Act, 1989 and Rules, 1993 framed thereunder arrived to the conclusion that employees of Ayurvedic Aided Institution are entitled to seek protection of the Act, 1989 and Rules, 1993

framed thereunder and passed the following order while disposing of the writ petitions under order impugned dt. 13.11.2009:--

"28. Accordingly, all the four writ petitions are disposed of as indicated hereunder:--

(i) on receipt of the report/recommendation of the aforesaid Committee, the State Government shall issue notice to the Samiti as well as its employees, including the petitioners, to be heard in representative capacity, and then after hearing both the parties, shall take a decision for running of the Institution by the Samiti.

(ii) in case, the report of the Committee is that the Samiti has committed serious illegalities, which have resulted in mismanagement of the Institution, and now it will not be proper to grant further opportunity to the Samiti to run the Institution, then show cause notice u/s 10 of the Act, of 1989 shall be issued for appointment of the Administrator for running the Institution and pass appropriate orders.

(iii) in case, neither the Samiti nor the State Government is in a position to run the Institution, then, after framing scheme of absorption under the provisions of the Act of 1989 and the Rules of 1993, the staff of the Institution shall be absorbed in some other Government College/Institution;

(iv) necessary orders of grant of any of the aforesaid Reliefs (i) to (iii) by the State Government shall be also passed within a period of three months, which shall also include order for making payment of arrears and regular monthly salary etc. from the 80% unpaid grant-in-aid now released by the State to Shri Parasrampurja Rajasthan Ayurveda College."

13. The foremost contention of counsel for State Government, Mr. Rajendra Prasad, Additional Advocate General is that the Ayurvedic Institutions which are receiving grant-in-aid under the Rules of 1972 have not been replaced/superseded by the later enactment of the Rajasthan Non-Government Educational Institutions Act, 1989 and Rules, 1993 framed thereunder and there is no provision for appointment of Administrator under the Rules, 1972 and the State Government was well within its jurisdiction not to take any further action and according to him the Id. Single Judge has committed an apparent error in directing the State Government to conduct an enquiry u/S.10 of the Act, 1989 for appointment of Administrator for running the Institution and for absorption of the staff in some other Government Ayurvedic College/Institution.

14. Mr. Anoop Dhand, Counsel for respondent Staff supports the judgment of the Id. Single Judge, impugned in the instant proceedings, and submitted that after the enactment of the Act, 1989 and Rules, 1993 framed thereunder have come into force, the Rules of 1972 deemed to be superseded and the service conditions of the employees of Ayurvedic Aided Educational Institutions are now being regulated by the Act of 1989 and Rules, 1993 framed thereunder, as such,

keeping in view the spirit of the scheme of Act, 1989 and Rules, 1993 framed thereunder, the Id. Single Judge has not committed any error which may require any interference by this court in the instant intra-court appeals.

15. During pendency of the special appeals, this court vide order dt. 29.01.2014 directed the State Government to look into the report of Committee dt. 19.10.2010 and submit their final comments and the counsel for State after taking the stand of the State Government informed this court, as noted by us in order dt. 27.05.2014, that it will not be possible for the State Government to absorb the employees/teachers/staff of the Ayurvedic Institution and the matter was thereafter heard on merits and the question which emerges for our consideration is as to whether the Rajasthan Ayurved Grant-in-Aid Rules, 1972 deemed to be superseded after the enactment of the Rajasthan Non-Government Educational Institutions Act, 1989 and Rules, 1993 framed thereunder and the service condition of the employees of Ayurvedic Aided Institution are now regulated by the Act of 1989 and Rules, 1993.

16. The Government of Rajasthan, Medical and Public Health Department (Gr.III) vide its notification dt. 03.01.1972 introduced the Rajasthan Ayurved Grant-in-Aid Rules, 1972 for such of the Rajasthan Non-Government Ayurved, Unani, Naturopathy, Homeopathy and other indigenous alternative medicinal Educational Institutions which are receiving grant-in-aid from the Government and the scheme provides a complete mechanism for releasing grant-in-aid, categorization of Medical Institutions and Hospitals receiving grant-in-aid, what steps can be taken by the State if the instructions of the State are not followed by the aided Institution and the service conditions of staff who are working in the Rajasthan Non-Government Ayurvedic Institutions, receiving grant-in-aid under the Rules, 1972, including their age of superannuation and the procedure to be followed if the Institution is to be closed down, apart from other conditions regulating and managing the affairs of the Institutions, with which we are not directly concerned.

17. Apart from judgment of the Id. Single Judge, which is impugned in the instant proceedings, yet there are few other judgments of the Single Bench of this court in S.B. Civil Writ Petition No. 921/1995 [Smt. Kamla Devi v. State and Another] decided on 26.02.2007 and the question arose as to whether the employee working in the cadre of Class-IV in an Ayurvedic Aided Institution, whose service conditions including age of superannuation are regulated under the Rules, 1972 or it should be in accordance with the Rules, 1993 which are framed by the State Government u/S.43 of the Act, 1989. The Id. Single Judge arrived to the conclusion that since the Institution is getting grant-in-aid under the Rules, 1972 and not under the Act, 1989 or the Rules, 1993 framed thereunder, as such, the age of superannuation of an employee of Ayurvedic Aided Institution provided under Rules, 1972 shall be applicable and not the age of superannuation provided under Rules, 1993 and accordingly dismissed the writ petition. At the same time, in S.B. Civil Writ Petition No. 3314/2006 [Dr. Raj Singh Malik and Others v. State of Rajasthan and Others] decided on 14.10.2008

the question arose before the Id. Single Judge of this Court was as to whether the Revised Pay Scale Rules, 1998 which have come into force w.e.f. 31.12.2005 shall be made applicable to the employees/teachers of the Non-Government Ayurvedic Institutions which are receiving grant-in-aid under the Rules, 1972 for the limited purpose regarding applicability of the benefit of Rules, 1993. The Id. Single Judge arrived to the conclusion that maintaining parity of the scheme of the Rajasthan Grant-in-Aid to Educational and Cultural Institutions Rules, 1963 and Rules, 1972, the teachers of Ayurvedic Institutions are entitled for the benefit of Revised Pay Scale Rules, 1998 and finally directed the State Government to extend the benefit, as available to the other Aided Educational Institutions of the State Government, in extending the benefit of Rajasthan Civil Services (Revised Pay Scale) Rules, 1998 from the date of its applicability.

18. Let us first examine the scheme of Rules, 1972. As already noticed by us, as regards, the Non-Government Ayurved, Unani, Naturopathy, Homeopathy and other indigenous alternative medicinal Educational Institutions are concerned, such Institutions are receiving grant-in-aid from the State Government under the Rajasthan Ayurved Grant-in-Aid Rules, 1972 which provides a complete mechanism regulating the service conditions of staff/teachers, their minimum qualification while induction into service and to the extent the Government can interfere in the aided Ayurvedic Institutions and the day-to-day interference of the State Government under these Ayurvedic Institutions. It may further be noted that department of Ayurved of the State Government is headed by the Director (Ayurved), Rajasthan, Ajmer who is subordinate to the Principal Secretary, Department of Ayurveda, Jaipur and the Institutions are affiliated to the Rajasthan Ayurveda University, Jodhpur and indisputably grant-in-aid is released to the Institution under the Rules, 1972.

19. As regards Non-Government Educational Institutions, receiving grant-in-aid from the State Government prior to coming into force of the enactment of the Act, 1989 and Rules, 1993 framed thereunder are concerned, such educational Institutions were receiving grant-in-aid from the State Government under the Rajasthan Grant-in-Aid Educational and Cultural Institutions Rules, 1963 which are executive instructions and not enforced by law and the State Government through the Director of Education/Sanskrit Education/Technical Education controls the Non-Government Educational Institution affiliated to any University established by law in the State but with the passage of time it revealed to the State Government that for better organization and development of education there is a need of proper Legislation and with the view to keep proper vigil and for good governance over the Institutions with the assent of the President on the 4th day of June, 1992 enacted the Act, 1989 and for regulating the recognition, grant-in-aid and service conditions etc. in exercise of power conferred by S.43 of Act, 1989 framed Rules, 1993 enforced w.e.f. 01.04.1993 and by virtue of R.91, the Rajasthan Grant-in-aid to Educational and Cultural Institutions Rules, 1963 stands repealed. It will be appropriate to first quote R.91 of the Rule. 1993 while repealing the actions which are saved by the Rule making authority which reads

ad infra:--

"91. Repeal and Saving.--(1) The Rajasthan Grant-in-aid to Educational and Cultural Institutions Rules, 1963 and any Notification issued and orders made under any such rules to the extent to which they apply to the person/institution to whom these rules apply and in so far as they relate to recognition, grant-in-aid, service/conditions, or confer powers to make appointments, grant-recognition, sanction grant-in-aid, impose penalties, or entertain appeals are hereby repealed.

Provided that - (a) such repeal shall not affect the previous operation of the said rules, notification and orders or anything done, or any action taken thereunder;

(b) Any proceedings under the said rules, notification or orders pending at the commencement of these rules shall be continued and disposed-off as far as may be, in accordance with the provisions of these Rules.

2. Nothing in these rules shall operate to deprive any person or institution to whom these rules apply any right of appeal which had accrued to them under the rules, notification or orders repealed by sub-rule (1) in respect of any order decided before the commencement of these Rules.

3. An appeal pending at or preferred after the commencement of these Rules against an order made before such commencement shall be considered and order thereon shall be passed in accordance with these Rules."

20. It may be noticed that Non-Government Ayurvedic Institutions are receiving grant-in-aid from the Government and regulated under Rules, 1972 and has not been repealed after the Rules, 1993 have come into force. To further substantiate, it can be noticed that all are aided Institutions whether it is educational Institution or Ayurvedic Institution, broadly these are educational Institutions but the Legislature in its wisdom while enacting Act, 1989 intended to control such Non-Government Educational Institutions which are receiving grant-in-aid under the Rules, 1963 and while doing so the definition of "Director of Education", as provided u/S.2(f) of the Act, 1989 includes Director of College Education/Sanskrit Education/Technical Education/Primary and Secondary Education and this can be further inferred from the scheme of Act, 1989 that wherever there is interference of the State Government either in regard to the release of grant-in-aid received by the Institution or mis-management of the Institution by managing committee; or with regard to administration and managing the properties; or in reference to the procedure for release of grant-in-aid to the recognized Institution; or for prior approval for transfer of properties of the educational institutions; or for payment of salaries, service conditions of employee; or it may be removal or dismissal or reduction in rank of an employee u/S.18 of the Act, 1989, there is a requirement of seeking prior sanction/approval of the Director of Education, defined u/S.2(f) of the Act, 1989 and the Director (Ayurved), Ajmer, an officer of the State Government to control administration and other responsibilities of the Ayurvedic Institutions, is not

included under the definition of "Director of Education" as contemplated u/S.2(f) of the Act, 1989.

21. Even the scheme of Rules, 1993 which have been framed by the State Government in exercise of power u/S.43 of the Act, 1989 the corresponding provisions incorporated u/R.2(g) relates to Director of Education and other corresponding provisions also take note of the Educational Institutions which are controlled and managed through the Director of Education and at all stages, whether it is a procedure to be followed for reorganization of Institution or its withdrawal or for release of grant, that includes the Institutions of Primary and Secondary Education, Degree and Post Graduate Institutions, Sanskrit and Technical Education but it appears to be a conscious decision of the State Government not to include the Non-Government Ayurvedic Institutions receiving grant-in-aid from the State Government under Rules, 1972. Indisputably, the grant-in-aid to Ayurvedic Institutions are still being released under the scheme of Rules, 1972 and the age of superannuation of Teachers and Employees of the Non-Government Educational Institutions covered under the Act, 1989 and Rule, 1993 framed thereunder is 60 years in terms of R.45 of the Rules, 1993 and at the same time the age of superannuation of employees of the Non-Government Ayurvedic Institutions, receiving grant-in-aid from the State Government under the Rules, 1972 is 58 years and not 60 years, as being referred to under the Rules, 1993 and as we have noticed that after the Rules of 1993 came into force w.e.f. 01.04.1993, the Rajasthan Grant-in-Aid to Educational and Cultural Institutions Rules, 1963 stands repealed, however, its actions have been saved under the repeal and saving clause and grant-in-aid to educational Institutions are now released under Act, 1989 and Rules, 1993 framed thereunder.

22. Thus, it can safely be inferred that the State Government took a conscious decision not to include such of the Ayurvedic Institutions receiving aid from the Government under the Rules, 1972 to be covered under the Act of 1989 and Rules, 1993 framed thereunder and we find that relevant scheme of 1972, which we have taken note of, completely remained unnoticed by the Id. Single Judge while arriving to a conclusion that provisions of Act, 1989 and Rules, 1993 framed thereunder are applicable after it came into force over the Non-Government Ayurvedic Institutions receiving aid from the Government under the Rules, 1972. It is true that Non-Government Educational Institutions, who are earlier receiving grant-in-aid from the State Government under Rules, 1963 are receiving aid covered under the Act, 1989 and Rules, 1993 framed thereunder and it can be further noticed that the employees of an Aided Educational Institutions under the Act, 1989 and Rules, 1993 came to be absorbed by the Government under the Rules framed in exercise of power u/Art. 309 of the Constitution of India namely Rajasthan Voluntary Rural Education Service Rules, 2010. In the light of the discussion, we are unable to subscribe the view expressed by the Id. Single Judge under the judgment impugned herein regarding applicability of the Act, 1989 and Rules, 1993 to the Ayurvedic Aided Institutions.

23. The matter could not be put to rest at this stage and if the employees/ teachers of Non-Government Ayurvedic Aided Institution have served the Institution for a pretty long time for more than two decades, it is all the more of utmost importance to see that they should not be deprived of their livelihood and the Government cannot be exempted to take a safer course by holding that in absence of there being any provision for appointment of Administrator under Rules, 1972, the Government is helpless in taking decision.

24. We are not going into the question as to whether the situation arose because of the misdeeds of management of the Institution or the employees are at fault because of an on-going strike for a long time, the Government intervened and took decision to transfer the students in September, 2008 to other Institutions receiving aid from the State Government under the Rules, 1972.

25. It is certainly an onerous duty of the State Government as a custodian and a model employer to see that the employees of such of the aided Institutions, who may not be covered under the Act, 1989 and Rules, 1993 framed thereunder but still entitled to seek protection of their service conditions and the State Government cannot be permitted to be a silent spectator and permit the Aided Educational Institutions to close down without intervention of the Government running for a long time i.e. more than 5 decades in the instant case and after this fact has been brought to our notice that the employees have served for more than 20 years, that needs additional caution to keep proper vigil over such of the Aided Institutions and to protect the service conditions of the employees working in the Ayurvedic Aided Institutions.

26. We can further notice that the State Government has framed Rules in exercise of powers u/Art. 309 of the Constitution namely the Rajasthan Civil Services (Appointment and other Service Conditions of Employees of Private Institutions and other Establishments taken over by the Government) Rules, 1977. It is true that protection to such employees be made available where the Government decides to take over the private Institution which is not receiving any aid from the Government but this can be of assistance to such of the employees who are serving in the aided Institutions and are on better footing and if the State Government in its wisdom is of the view that because of misdeeds or mis-management in the private Institutions or other establishments, the rights/service conditions of the employees serving in private Institutions and establishments deserves to be protected and as it has come on record that in the year 1972, the department of Medical and Public Health vide its order dt. 16.06.1972 absorbed the employees of the defunct Ayurved Vishwa Bharti Sardarshahar College in Rajasthan Government Service in the Ayurveda Department against the available vacancies on certain terms and conditions. It will be appropriate to quote the order of the State Government dt. 16.06.1972 for the present purpose, which reads ad infra:--

"Government of Rajasthan Medical and Public Health Department (Gr.III)

Jaipur, the 16th June, 1972.

No.F.24(1)Ayurved/71

The Director, Ayurved Department, Rajasthan, Ajmer.

Sub: Absorption of the staff of Ayurved Vishva Bharti Sardarshahar College in Government Service.

Ref. Your letter No. Prati-1/72/3715 dated 7.2.72.

Sir,

I am directed to convey sanction of the Governor to the absorption of the following personnel of the defunct Ayurved Vishwa Bharti Sardarshahar College in Rajasthan Government Service in the Ayurved Department against the available vacancies in the following manner with effect from the date they take over charge of the post on which they are absorbed:

On their appointment on these posts these persons will be allowed the same pay that they were drawing as on 31.03.1971 before the Management of the Institution decided to revise their Pay Scales w.e.f. 1.4.1971.

2. The absorption would be subject to the following conditions:--

- 1) The absorption on the posts indicated above is purely ad hoc and provisional subject to the selection by the R.P.S.C.
- 2) The service rendered in Ayurved Vishwa Bharti shall not count for any purpose whatsoever.
- 3) These personnel will be governed by the relevant Ayurvedic Service Rules and other rules applicable to Rajasthan Government Servants.
- 4) Age Relaxation would be done as per rules.
- 5) They will be required to produce Medical Certificate of fitness for Government Service before joining the post.

This issues with the concurrence of the Finance Department (Exp.1) vide their U.O. Note No. D.1707/FD/Exp.I/72 dated 15.5.1972.

Sd/- Yours faithfully, (Moti Lal Kakkar) Dy. Secretary to the Govt."

27. Keeping in view the past practice of the Government, the service conditions of employees of the Ayurvedic Aided Institution needs protection. It is true that it is always for the State Government to take its decision and the order dt. 16.06.1972 (supra) has been referred only to show that at one point of time the State Government came to the rescue of the employees of one of the Ayurvedic Aided Institution and keeping that into consideration if the service conditions of employees of the present Aided Institution are not protected, who have served for more than 2 decades that will cause great injustice to them.

28. The State Government has expressed that there is no provision of appointment of Administrator under Rules, 1972 and the State Government does not intend to take over the Institution and to absorb the employees needs a revisit at the level of the State Government. Even during pendency of the writ petitions and so also before us, the matter was referred to the State Government but nothing, in concrete terms, came forward but still we feel that looking to the tenure of service which the employees have rendered in an Ayurvedic Aided Institution, they deserve indulgence for protection of their service conditions, may not be under the Act, 1989 and Rules, 1993 framed thereunder but it is expected from the State Government to come forward with a pragmatic approach and to protect the service conditions of the employees who have given their valuable services to the Non-Government Ayurvedic Aided Institution for more than 2 decades and merely because there is no Legislation to support, taking assistance from the enactment of the Act, 1989 and Rules, 1993 framed thereunder provided to the Non-Government Educational Institutions, protection of service conditions could be provided to the employees of the Ayurvedic Aided Institution in the spirit of Rules, 1993 and the Government is competent enough to take decision under the Rules, 1977 to protect service conditions of the employees who have served the Ayurvedic Aided Institution for a sufficient long time and deprivation of service to such of the employees who have served for more than two decades may certainly violate their right of livelihood conferred under Art. 21 of the Constitution.

29. Consequently, we are unable to approve the view expressed by the Id. Single Judge, as regards applicability of the Rajasthan Non-Government Educational Institutions Act, 1989 and Rules, 1993 framed thereunder to such of the Non-Government Ayurvedic Aided Institution who are receiving grant-in-aid from the State Government under the Rajasthan Ayurved Grant-in-Aid Rules, 1972 but at the same time, we are also of the view that the Government must consider by constituting a committee and explore the possibility and come out with a scheme for protection of service conditions of employees of the Non-Government Ayurvedic Aided Institution keeping in view the scheme and spirit of Rules, 1977 at least the employees of the Non-Government Ayurvedic Aided Institutions in our considered view deserve consideration for protection of their service conditions.

30. Let the State Government may examine the matter by constituting a Committee and take its decision expeditiously and we hope and trust that the State Government will take a positive view in the matter in introducing a scheme protecting the service conditions of the employees of the Ayurvedic Aided Institution who have nurtured the Institution by putting their heart and soul for proving their existence.

31. Consequently, the order impugned passed by the Id. Single Judge dt. 13.11.2009 is hereby quashed and set aside and all the intra-court appeals stand disposed of with the directions supra. The State Government may take

appropriate decision within a period of three months.

32. No costs.