
(2010) 10 AHC CK 0376
In the Allahabad High Court
Case No : Special Appeal No. 1620 of 2010

The C/M, M.H.M.H.S.S. and Another	Vs	APPELLANT
Shoaib Akhtar and Others		RESPONDENT

Date of Decision : 26-10-2010

Acts Referred:

Citation : (2011) 1 ARC 410

Hon'ble Judges : Ferdino Inacio Rebello, C.J;Amreshwar Pratap Sahi, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard learned Counsel for the parties.
2. The Appellants are aggrieved by the order of the learned Single Judge dated 21.4.2010, whereby he has allowed the writ Petition filed by Respondent No. 1.
3. The father of Respondent No. 1 was employed with Appellant No. 1. He died while in service. The widow along with Respondent No. 1, applied to the State Authorities that they be appointed on compassionate basis. The State Authorities initially appointed Respondent No. 1 in another College and subsequently, vide order dated 14.9.2004, such appointment was sought to be made in the Appellants' College. That order has not been challenged by the Appellants.
4. As the aforesaid order of appointment was not being enforced, Respondent No. 1 filed the writ Petition giving rise to this appeal, which came to be allowed.
5. On behalf of the Appellants, learned Counsel submits that they being a minority institution, such a direction could not have been issued. In our opinion, such issue has already been decided, against the institution, by a judgment of the coordinate Division Bench of this Court in Civil Misc. Writ Petition No. 12157 of 2003 (The Governing Body of the registered Society designated as St. Andrew's College Association, Gorakhpur and Anr. v. State of U.P. and Ors.) on 27th August, 2003. Learned Counsel, however, sought to draw our attention to

the judgment of a learned Single Judge of this Court in Committee of Management, M.A.H. Inter College and Another Vs. District Inspector of Schools, Ghazipur and Others, decided on April 30, 2002.

6. Considering the judgment in The Governing Body of the registered Society designated as St. Andrew's College Association, Gorakhpur and Anr. v. State of U.P. and Ors. (supra), the judgment in Committee of Management, M.A.H. Inter College v. District Inspector of Schools, Ghazipur (supra), would no longer be good law. However, the contention sought to be advanced that there was no financial hardship suffered by Respondent No. 1 and as such, the order impugned could not have been passed, that question cannot be gone into considering that the Appellants have not challenged the order dated 14.9.2004.

7. In the light of that, in our opinion, there is no merit in the appeal. It is accordingly, dismissed.