

Court No. - 17

Case :- WRIT - A No. - 34518 of 2017

Petitioner :- C/M, Shri Shiv Mangal Singh Purva Madhyamik Vidyalaya & Anr.

Respondent :- District Basic Education Officer, Kaushambi
And 4 Others

Counsel for Petitioner :- Indra Raj Singh, Adarsh Singh

Counsel for Respondent :- C.S.C., Pranesh Dutt Tripathi

Hon'ble Pradeep Kumar Singh Baghel, J.

The petitioner no. 1 is a Committee of Management, which manages affairs of an educational institution, namely, Shri Shiv Mangal Singh Purva Madhyamik Vidyalaya, Ambai Buzurg, Kada, Kaushambi. Its Manager has joined the petition as petitioner no 2. Initially the institution was recognised under the Uttar Pradesh Basic Education Act, 1972. It receives financial aid from the State Government under the provisions of the Uttar Pradesh Junior High Schools (Payment of Salaries of Teachers and Other Employees) Act, 1978 (U.P. Act No. 6 of 1979). The institution was upgraded and recognised under Section 7-A of the Uttar Pradesh Intermediate Education Act, 1921 as High School with effect from July, 1984. It is stated that it was further upgraded and recognised as Intermediate College in the year 2004.

The grievance of the petitioners is that one Sher Singh, who was Headmaster of the Junior High School, retired from service on 30th June, 2011, thus, the post of Headmaster fell vacant. The Committee of Management made an application on 06th May, 2015 to the District Basic Education Officer, Kaushambi and sought permission under Rule 7(3) of the Uttar Pradesh Recognised Basic Schools (Junior High Schools) (Recruitment and Conditions of Service of Teachers) Rules, 1978 to fill up the said post. It is stated that though the District Basic Education Officer vide his order dated 27th May, 2015 granted permission to fill up the post, but without giving any opportunity of hearing the said order has been reviewed by order dated 03rd June, 2015 and prevented the petitioner from filling up the post of Headmaster. In the impugned order the authority has placed reliance on a judgement of this Court in Writ Petition No. 4058 of 2008 (Ravendra Pal Singh v. State of U.P. and others).

Learned counsel for the petitioners has stated that this case is covered by the judgment of this Court passed today in Writ-A No. 28718 of 2017 (Mohd. Tariq and another v. State of U.P.

and others).

I have heard learned counsel for the petitioners and learned Standing Counsel.

The aforesaid judgment relied upon by learned counsel for the petitioners is not applicable in the present case as it was in respect of the post of non-teaching staff. However, in paragraph-8 of the writ petition the petitioners have stated that the order dated 03rd June, 2015 has been passed without affording any opportunity.

The writ petition was filed beyond 334 days and the Court has condoned the delay. But having due regard to the facts and circumstances of the case I am of the view that the ends of justice require that the petitioners be granted liberty to file a fresh representation before the District Basic Education Officer, who has passed the impugned order without affording any opportunity to the petitioners. In the event any such representation is made, the same shall be considered by the District Basic Education Officer, Kaushambi expeditiously. The impugned order dated 03rd June, 2015 shall abide by the result of the fresh order passed by the District Basic Education Officer.

With the aforesaid observations, the writ petition stands disposed of. No order as to costs.

Order Date :- 31.8.2017

SKT/-