

Court No. - 9

Case :- WRIT - A No. - 7795 of 2024

Petitioner :- C/M Kunwar Rukum Singh Vaidik Inter College And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Prabhakar Awasthi, Suresh Singh

Counsel for Respondent :- C.S.C., Shivendra Bahadur Singh

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Prabhakar Awasthi, the learned counsel for the petitioners, Sri Shailendra Singh, the learned Standing Counsel representing the opposite parties no. 1, 2 & 3 and Sri Manish Kumar holding brief of Sri Shivendra Bahadur Singh, the learned counsel for the opposite party no. 4.

2. By means of the instant writ petition filed under Article 226 of the Constitution of India, the petitioners-Committee of Management, Kunwar Rukum Singh Vaidik Inter College, Badaun and its Manager have challenged validity of an order dated 27.03.2024 passed by the District Inspector of Schools, Badaun, rejecting the seniority list of Lecturers in the petitioners' institution, prepared by the petitioners and directing them to issue a fresh seniority list as per the earlier seniority list published by the petitioners in the year 2020-21 in furtherance of an order dated 02.03.2017 passed by the Joint Director of Education, Bareilly Division, Bareilly. The petitioners have also challenged validity of an order dated 15.04.2024 passed by the District Inspector of Schools, Badaun, directing the petitioners to hand over charge of the post of Principal to the opposite party no. 4, failing which the proceedings will be initiated for superseding the managing committee of the college.

3. On the last date, this Court had passed an order that locus standi of the petitioners to challenge validity of the seniority list will be examined by this Court as the committee of management has challenged the seniority list and the persons affected by the impugned order, who would become

junior to the opposite party no. 4 by implementation of the impugned order, has not come forward to assail validity of the impugned orders.

4. Regarding locus standi of the petitioners, the learned counsel for the petitioners has submitted that under the provisions contained in Regulation 3 of Chapter II of the Regulations framed under U.P. Intermediate Education Act, 1921 the Committee of Management has been given the responsibility to prepare a seniority list of teachers. Officiating Principals are appointed in accordance with the seniority of the teachers.

5. In exercise of powers conferred by Regulation 3 of Chapter II of the aforesaid regulations, the petitioners have fixed seniority of teachers, as per which it is entitled to appoint the senior-most teacher Dr. Yogendra Pal as officiating principal of the college. By the impugned order, the opposite party no. 3 has directed the petitioners to issue a fresh seniority list by placing the opposite party no. 4 at the senior-most position and hand over the charge of the principal of the college. This order would affect the petitioners directly, as it mandates the petitioners to issue a fresh seniority list as per the directions issued by the opposite party no. 3 and to hand over charge of the post of Principal to the opposite party no. 4, who is not otherwise entitled to be appointed as Principal as per the seniority list issued by the petitioners.

6. In view of the aforesaid fact, this Court is of the considered opinion that the petitioners are affected by the impugned orders and they have the locus standi to challenge the same by filing a writ petition under Article 226 of the Constitution of India.

7. Accordingly, I proceed to examine the merits of the writ petition.

8. The petitioners have published a seniority list of teachers for the year 2023-24, which has been disapproved by the District Inspector of Schools. The relevant provision, which is contained under Regulation 3 of

Chapter II of the Intermediate Education Act, 1921 is being reproduced below:-

“3. (1) The Committee of Management of every institution shall cause a seniority list of teachers to be prepared in accordance with the following provisions-

(a) The seniority list shall be prepared separately for each grade of teachers whether permanent or temporary, on any substantive post;

(b) Seniority of teachers in a grade shall be determined on the basis of their substantive appointment in that grade. If two or more teachers were so appointed on the same date, seniority shall be determined on the basis of age;

[(bb) Where two or more teachers working in a grade are promoted to the next higher grade on the same date, their seniority *inter se* shall be determined on the basis of the length of their service to be reckoned from the date of their substantive appointment in the grade from which they are promoted:

Provided that if such length of service is equal, seniority shall be determined on the basis of age.]

(c) A teacher in a higher grade shall be deemed to be senior to a teacher in the lower grade irrespective of the length of service:

(d) If a teacher who is placed under suspension is reinstated on his original post his original seniority in the grade shall not be affected;

(e) Every dispute about the seniority of the teacher shall be referred to the Committee of Management which shall decide the same giving reasons for the decision;

[(f) उपखण्ड (ड) के अधीन प्रबन्ध समिति के विनिश्चय से व्यथित कोई अध्यापक ऐसा विनिश्चय ऐसे अध्यापक को सूचित किये जाने के दिनांक से 15 दिन के भीतर सम्बन्धित क्षेत्रीय उप-शिक्षा निदेशक को अपील कर सकता है. और अपील पर सम्बन्धित पक्षों को सुनवाई का अवसर देने के उपरान्त उप शिक्षा निदेशक अपना निर्णय कारण सहित देगा, जो अन्तिम होगा और प्रबन्ध समिति द्वारा कार्यान्वित किया जायेगा।”]

[g] यदि एक ग्रेड में कार्यरत दो या अधिक अध्यापक किसी एक ही तिथि पर पदोन्नति किए जाएँ तो उनकी ज्येष्ठता का आधार उस ग्रेड का सेवाकाल होगा, जिसमें वे कार्यरत थे, परन्तु यदि सेवाकाल बराबर है, तो पदोन्नति को दशा में आयु के आधार पर ज्येष्ठता निर्धारित की जायेगी।

(2) The seniority list shall be revised every year and the provisions of Clause (1) shall *mutatis mutandis* apply to such revision.”

9. Regulation 3 does not confer any power on the District Inspector of Schools to interfere with the seniority list published by the Committee of

Management of any institution. Regulation 3(1)(f) provides that any person aggrieved by fixation of his seniority, may file an appeal before the Regional Deputy Director of Education and the appellate authority can pass suitable orders in exercise of his appellate jurisdiction. However, even the Regional Deputy Director of Education has not been granted any authority to Suo motto interfere with the seniority list issued by the Committee of Management under the provisions of Regulation 3(1) of Chapter II of the regulations framed under the Act.

10. In any case, the District Inspector of Schools has no authority under provisions of the regulations framed under the U.P. Intermediate Education Act or under any other statutory provision to interfere with the seniority list issued by the committee of management of the college or to issue a direction to the committee of management to issue a fresh seniority list and to appoint officiating principal as per the modified seniority list to be issued as per the directions of the District Inspector of Schools.

11. In view of the aforesaid discussion, this Court is of the considered opinion that the impugned orders dated 27.03.2024 and 15.04.2024 are unsustainable in law.

12. Accordingly, the writ petition is *allowed*.

13. Both the orders dated 27.03.2024 and 15.04.2024 passed by the District Inspector of Schools, Badaun are hereby quashed.

14. In case, any person affected by the seniority list files an appeal under Regulation 3(1)(f) of Chapter II of the U.P. Intermediate Education Act, 1921 the same will be decided in accordance with law, without being influenced by any observations made in this order.

Order Date :- 29.7.2024

Pradeep/-