

Bhadra Narain Pathak and anr Vs. the State of U.P. and ors.

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Court : Allahabad

Decided On : Nov-02-2010

Judge : Sunil Ambwani; Kashi Nath Pandey, JJ.

Appeal No. : SPECIAL APPEAL NO. 426 OF 2008

Appellant : Bhadra Narain Pathak and anr

Respondent : The State of U.P. and ors.

Advocate for Pet/Ap. : Shri. Rajeev Misra

Judgement :

1. Heard Shri Rajeev Misra, learned counsel for petitioners-appellant. Learned Standing Counsel appears for respondents.
2. Shri Bhadra Narain Pathak and Shri Santosh Kumar Upadhyay have filed this Special Appeal against a short judgement of this Court dated 21.2.2008 in Writ Petition No. 9688 of 2008, which reads as follows:-

"In view of the categorical findings of fact that the educational institution is not in existence, this Court is not inclined to interfere in the impugned order at this stage.

The writ petition fails and is dismissed."

3. It is contended by Shri Rajeev Misra that 'Sri Mahaveer Pathak Sanskrit Mahavidyalaya, Aswari, Raja Talab, Varanasi' is recognised by Sampurnanad Sanskrit University, Varanasi. The petitioners are approved teachers and they are getting salary since 1983. There are two teachers in the institution. The students are regularly appearing from the institution in the examinations conducted by the Sampurnanand Sanskrit University. Now the State Government has framed U.P. Sanskrit Basic Education Act regulating service conditions of the teachers of the sanskrit institutions registered and recognised by the Sampurnanand Sanskrit University, Varanasi. The teachers are receiving regular salary, and are performing their duties. Some complaints were made on account of rivalry between the Sanskrit Teachers' Association on which an inspection was caused and in which it is alleged that Shri Santosh Kumar Upadhyaya-appellant no. 2 could not point out the place from where the school is running. The Principal Secretary, Government of U.P. has suspended the grant-in-aid of the school. It is submitted that the findings are incorrect. The Inspector of Sanskrit Education has repeatedly caused inspections of the institution, and that every year the students are appearing in the examinations. The inspection was made ex-parte and that no opportunity was given to the petitioners before suspending the grant. They are getting their salaries since 1993, which has now been stopped w.e.f. 27.12.2007. Shri Rajeev Misra submits that in any case a final order has to be passed in the matter. He has relied upon a judgment of learned Single Judge in Writ Petition No. 8593 of 2008 Jagdish Sharma and others vs. State of UP and others decided on 15.9.2010 in submitting that the suspension of grant in aid without notice and opportunity is in violation of principles of natural justice.

4. A large number of Sanskrit institutions in the State are functioning only on the papers and are receiving grants which are pocketed by few individuals. In the present case the physical inspection was caused by Smt. Mamta Srivastava, Deputy Secretary, Government of U.P., and Shri Vinod Singh, Deputy Director of Director (Sanskrit) Allahabad on 10.12.2007 at 11 AM. After spending a long time searching in the village they were told by one Shri Ram Surat, a resident of the village, that long ago there was one school by the name of 'Shree Niwas Jyoti Sadan' in a private residence. It is closed for last 10-15 years. In the house of Sri Niwas Jyoti Sadan the inspecting party found the branches of 'Arhar' plants stored

in the varandah. In the neighbourhood, there was a guest room of 8'x8' of Shri Nandan Salabh Hanuman Mahaveer Pathak, on which a stone was embodied with the name of Mahaveer Pathak Sanskrit Vidyalaya Asvari. Another room measuring 12'x8' adjacent to the house was in a dilapidated condition. There was third room measuring 12'x8' which appears to have been closed for several years. The house was littered with animal droppings and garbage was dumped around it. At that time one Shri Santosh Kumar Upadhyay (appellant no.2) appeared claiming himself to be a teacher of the school. He informed the inspecting party that now the school is running in the varanadah of house of Shri Sitla Saran Upadhyay. When the inspecting party went to the house of Sitla Saran Upadhyay, they found agriculture produce stored in the house. There were two 'wooden planks (Takhats) and one wooden sofa used for residential purposes. Shri Santosh Kumar informed that he is serving as teachers since 26.8.1981 and for last 23 years the school is being run in the varanadah. There was no board on wall nor there was any table, chair or teaching equipments. There were no book registers or any documents nor any almirah or shelf to keep them. The inspecting party were informed that the books are brought by the teachers. When Shri Santosh Kumar was asked about the names of the students, he informed the inspecting party that there are 20 students but he could not give their names. He gave names of only two girl students Anjali Devi and Soni Devi who were his nieces. When he was asked to give name of any child, who is studying in the school, Shri Upadhyay informed that the son of gram pradhan is a student but that he has gone to the hospital.

5. The inspecting party submitted their report to the Principal Secretary, Government of U.P. that there is no institution by the name of Mahavir Pathak Sanskrit Vidyalaya on the addresses given in the recognition certificate. The person present could not produce any document with regard to the registration of the society, recognition, attendance register or any document to establish that any school was ever running in the village by the name of Mahavir Pathak Sanskrit Vidyalaya.

6. Shri Rajeev Misra has stated that in such situation the opportunity is to be given to the petitioners. He submits that once the institution is recognised and that the teachers are getting salary since 1983, the order suspending the grant could not

have been passed unless the petitioners were given a notice.

7. Shri Misra submits that the school is in existence but could not point out any averment in the writ petition giving the address and the names of the teachers or students, who were taking education in the year 2007 in the school.

8. On the report submitted by the senior officers and accepted by the Principal Secretary, Government of UP in the name of the Governor of the State, the petitioners have apparently played fraud with the education department. There is no school by the name of Mahaveer Pathak Sanskrit Vidyalaya, Asvari, Raja Ka Talab, Varanasi in existence for a long period. The entire records appear to have been forged to continue to claim grant and salary of the teachers. The petitioners have not submitted any representation to the Principal Secretary, Government of UP challenging the inspection report. They have filed a Writ Petition straightaway alleging violations of principles of natural justice.

9. We have carefully perused the material annexed to the writ petition and do not find any document, which may clear the doubt over the validity of the inspection report. In the facts and circumstances we do not propose to give any direction to the State to conclude the proceedings. A person who played fraud with the system, has no right to approach the court for relief under Article 226 of the Constitution of India.

10. The Special Appeal is dismissed.

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