

C/M Intermediate College And Another vs State Of U.P. Thru Princ.Secy. And ... on 1 May, 2025

Author: Saral Srivastava

Bench: Saral Srivastava

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:69004

Court No. - 32

Case :- WRIT - C No. - 20154 of 2011

Petitioner :- C/M Intermediate College And Another

Respondent :- State Of U.P. Thru Princ.Secy. And Others

Counsel for Petitioner :- G.K. Singh,V.K. Singh

Counsel for Respondent :- C.S.C.

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the petitioners and Sri Ansul Nigam, learned Standing Counsel for the State-functionaries.
2. By means of the present writ petition, the petitioner has assailed the order dated 10.03.2011 passed by the Special Secretary, Secondary Education, U.P. Government, Lucknow.
3. Challenging the aforesaid order, learned counsel for the petitioner has contended that before passing the impugned order, the procedure prescribed under Regulation 13 of Chapter VII of the Regulations framed under the U.P. Intermediate Education Act has not been followed. In this

respect, necessary averments have been made in paragraphs No.43 and 44 of the writ petition. Paragraphs No.43 and 44 of the writ petition are reproduced herein below:-

"43. That Regulation 13 of Chapter-VII of the Regulations framed under the U.P. Intermediate Education Act clearly provides that when the Director submits a report/recommendation to the Board for withdrawn of recognition of an institution, the Board would give a show-cause notice to the institution concerned. Upon receiving the aforesaid show-cause notice the Manager would give a reply which would be given to the Joint Director of Education who would forward the same to the Board along with his report. The matter would thereafter be placed before the State Government and it is only after it is approved by the State Government that an order would be passed by the Board withdrawing the recognition or asking the management to remove the defects.

44. That in the present case the procedure, as prescribed in Regulation 13 was not complied with. Neither the Board nor the Joint Director of Education or the State Government before passing the order impugned gave any notice or opportunity of hearing of any kind to the petitioner-committee of management. No show cause notice whatsoever had been issued by the Board to the petitioner-committee of management. The report of the Joint Director of Education was also ex parte and a copy of the said report was given to the petitioner-college only when an application under R.T.I. Act was filed by a teacher thereof.

4. Accordingly, it is submitted that the impugned order cannot be sustained in law.

5. The State Government has filed counter affidavit and paragraphs No.43 and 44 of the writ petition have been replied in paragraph No.19 of the counter affidavit. Paragraph No.19 of the counter affidavit of the State is reproduced herein below:-

"19. That the contents of paragraph nos.34 to 43 of the writ petition as stated are incorrect and as such are denied. In reply thereto it is submitted that the enquiry report dated 20-01-2009 of the Joint Director of Education, Vindhyachal Mandal, Mirzapur, enquiry report dated 30-06-2010 of the Joint Director of Education, Varanasi Mandal, Varanasi as well as explanation submitted by the petitioners were placed in the meeting of Recognition Committee held on 5th July, 2010 and the Recognition Committee in its meeting dated 5th of July, 2010 passed resolution for cancellation of unaided recognition of the institution in question upto Intermediate level. It is further submitted that the recommendation of Recognition Committee was accepted by the State Government and vide G.O. dated 10th March, 2010 issued by the Special Secretary, Shiksha Anubhag-7 Government of U.P., Lucknow the recognition of the petitioner's institution upto Intermediate level has been withdrawn."

6. From perusal of the averments made in paragraph No.19 of the counter affidavit, it is evident that the specific averments made by the petitioner with regard to the non-compliance of Regulation 13 of Chapter VII of the Regulations framed under the U.P. Intermediate Education Act has not been denied.

7. This Court has also granted interim order on 06.04.2011 on the ground of non-compliance of Regulation 13 of Chapter VII of the Regulations framed under the U.P. Intermediate Education Act.

8. It is pertinent to note that this Court has passed an order dated 16.05.2019 in Writ-C No.24898 of 2011 which reads as under:-

"Supplementary affidavit filed today by learned Standing Counsel on behalf of respondent nos. 1to 3, is taken on record.

Learned counsel for the petitioners prays for and is allowed two weeks' time to file reply to the same.

It is submitted by the learned Standing Counsel that in view of the stay order operating in the present case over and above the order revoking the recognition no inspection could be conducted and there has been non-cooperation of the institution also.

It is made clear that in spite of the fact that interim order was operating herein the concerned respondents shall hold enquiry in the matter and shall cause inspection of the institution as well.

Learned counsel for the petitioner submits that the petitioner shall cooperate in the matter of enquiry and inspection for the said purpose.

At this stage learned Standing Counsel submits that the petitioners have been issued with a notice dated 10.5.2019.

In view of the above it is hereby provided that the inspection team to be constituted by the department concerned shall visit this institution with a prior proper notice and the institution shall cooperate in the matter of enquiry.

A proper report shall be submitted by the department before this Court by the next date fixed.

List on 16.7.2019.

Interim order to continue in the meanwhile."

9. In compliance of the aforesaid order of this Court, an inspection was conducted by the Committee constituted by the Board and the Committee has submitted its report, copy of which is enclosed as Annexure No.4 to the compliance affidavit filed by Sri Prabhash Kumar Jha, the then Assistant Secretary, Secondary Education Board, Regional Office, Varanasi.

10. Learned counsel for the petitioner has submitted that perusal of the inspection report reveals that the same is in favour of the petitioner.

11. Thus, for the reasons given above, the impugned order cannot be sustained in law and is hereby set aside with liberty to the respondent No.1-Principal Secretary, Secondary Education, Government of U.P., Lucknow to pass a fresh order strictly in accordance with law after giving due notice and opportunity of hearing to all the concerned parties in the light of the report enclosed as Annexure No.4 to the compliance affidavit within a period of two months from the date of production of certified copy of this order.

12. The writ petition is allowed with no order as to cost.

Order Date :- 1.5.2025 SS