

# **Smt. Shashi Srivastava vs State Of U.P. And 3 Others on 1 May, 2025**

**Author: Saurabh Shyam Shamshery**

**Bench: Saurabh Shyam Shamshery**

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No.- 2025:AHC:69488

Judgment Reserved on 24.4.2025

Delivered on 1.5.2025

Court No. - 6

Case :- WRIT - A No. - 6175 of 2019

Petitioner :- Smt. Shashi Srivastava

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

Counsel for Petitioner :- Kumar Anish,Vinay Kumar Srivastava

Counsel for Respondent :- Amit Kumar Singh,Ashish Kumar (Nagvanshi),C.S.C.,Madan Mohan S

Hon'ble Saurabh Shyam Shamshery,J.

1. Heard Sri V.K.Singh, learned Senior Counsel assisted by Sri V.K.Srivastava, learned counsel for petitioner, Sri Brijesh Narayan Srivastava, learned Standing Counsel for State and Sri M.M.Srivastava, learned counsel for respondents.

2. Case of the petitioner in brief is that she was appointed as an Assistant Teacher in the concerned primary School on 1.7.1984 and her services were approved on 16.1.1985 by the Additional Director of Basic Education.

3. A process was initiated by the Committee of Management of concerned school to include the name of concerned school into the list of grant-in-aid, in which the name of the petitioner was included in the Managerial Returns (MR) at serial no.2 which was submitted along with an application dated 31.7.1990. Thereafter, concerned school was taken under the list of grant-in-aid.

4. It is further case of the petitioner that matter remained pending before District Basic Education Officer, Deoria as some dispute arose in regard to appointment and working of the petitioner. There were some communications in favour of the petitioner that she was working in the concerned school. However, vide order dated 23.11.1998, salary of the petitioner alongwith other employees of the school was stopped since the inquiry was pending.

5. In the aforesaid circumstances, petitioner filed Writ Petition No.42291 of 1999, wherein an interim order was passed on 1.10.1999. However, it appears that it was not effectively followed. It is further case of the petitioner that meanwhile one Smt. Damyanti Yadav was appointed on the post of Head Mistress, though later on her appointment was cancelled and on 11.11.2000, signature of the petitioner as an Officiating Head Mistress was approved. However, no salary was paid to the petitioner and an order dated 5.5.2006 was passed by the Director of Education (Basic), whereby salary of the petitioner was again stopped.

6. Aforesaid order was subject matter of challenge in Writ Petition No.38773 of 2006 which was disposed of vide order dated 25.5.2018, whereby the impugned order dated 5.5.2006 was quashed with certain direction to Director of Education (Basic) that inquiry report of DBEO dated 4.6.2005 as well as earlier spot inspection conducted by the Sub District Inspector of Schools on 27.11.1991 be supplied to the petitioner and it was further directed that Director of Education (Basic) shall hold hearing a fresh and take a final decision within a period of six weeks. However, according to learned Senior Counsel for the petitioner report dated 27.11.1991 was never brought on record. Relevant part of report dated 4.6.2005 of District Basic Shiksha Adhikari which was passed on basis of an order dated 1.4.2005 passed in the earlier round of litigation in Writ Petition No.42291 of 1999 is reproduced hereinafter:

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7. On the basis of above referred report dated 4.6.2005, Director of Education Basic, passed an order dated 5.5.2006, wherein similar view was taken that petitioner has never worked in the concerned school. Relevant part thereof is reproduced hereinafter:

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8. In the aforesaid circumstances, petitioner filed Writ Petition bearing No.38773 of 2006, whereby the impugned order dated 5.5.2006 was quashed and writ petition was disposed of vide order dated 22.5.2018, with a direction to Director of Education Basic to take a fresh decision after providing a copy of inquiry report of District Basic Education Officer dated 4.6.2005 and the spot inspection

report dated 27.11.1999.

9. In the aforesaid circumstances, impugned order dated 5.3.2019 was passed, whereby claim of the petitioner was again rejected on ground that she has not regularly worked in the school. It may be relevant to note that petitioner had crossed the age of superannuation, when this writ petition was filed. For reference, relevant part of order dated 5.3.2019/8.3.2019 is reproduced hereinafter:

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10. Learned Senior Counsel for the petitioner submitted that the report dated 27.11.1991 was never provided to her. According to him, no such report was available at the concerned office and impugned order was passed on basis of an earlier order dated 4.6.2005, which was essentially set-aside, when a subsequent order dated 05.05.2006 was passed.

11. Petitioner has regularly worked without payment from 1998 to 2019 i.e. about 21 years.

12. There is no material with the said respondent against the claim of the petitioner. The reports relied upon were factually incorrect.

13. Learned counsel for the Committee of Management has essentially supported the claim of petitioner, whereas learned Standing Counsel has supported the impugned order as well as reports that since the petitioner has not worked, therefore, no salary could be paid to her from State exchequer.

14. I have considered the above submissions and perused the records.

15. Claim of the petitioner that she has regularly worked from 1998 to 2019 cannot be accepted on following grounds:

(a) There is no document on record that petitioner has joined her services after her appointment.

(b) Attendance register submitted by her was not the common attendance register, rather it was an individual attendance register which could not be considered as a substantial proof that petitioner has attended the school.

(c). Committee of Management, issued a notice on 31.7.1990 by way of publication in the newspaper which also proves that petitioner has not attended the school. In place of petitioner one Smt. Damyanti Yadav was appointed, though her appointment was later on cancelled vide order dated 8.3.1999, therefore, for the said period, petitioner has not worked.

(d) The document which appears to be in favour of petitioner is attestation of her signature on 11.9.2000 as Incharge Head Mistress. However, ignoring the other documents, it could not be considered to be a document which supports the case of the petitioner since it requires support from other material also.

(e) There is also a reference of letters dated 4.6.1990, 21.8.1990, 7.9.1990 as well as publication in the newspaper on 24.12.1990 whereby the petitioner was informed that due to her long absence, her appointment was cancelled.

(f) Court also takes note of a report dated 30.10.2015 which is placed along with counter affidavit wherein it was reiterated that the petitioner remained absent since 1985 and in her place Smt. Damyanti Yadav was appointed though her appointment was later on cancelled as referred above, therefore, there is no reason that petitioner's claim could be considered. Taking note of above referred documents, not much reliance can be placed on documents dated 5.9.2000 and 11.11.2000, whereby petitioner's signatures were attested as an Incharge Head Mistress of concerned school.

16. On basis of above grounds, there is no illegality in the impugned order.

17. Writ petition is, accordingly, dismissed.

Order Date :- 1.5.2025 SB