

Court No. - 5

Case :- WRIT - A No. - 19833 of 2024

Petitioner :- Santosh Kumari

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

Counsel for Petitioner :- Chandra Bhushan Yadav,Prabhakar
Awasthi

Counsel for Respondent :- C.S.C.,Nagendra Kumar Pandey

Hon'ble J.J. Munir,J.

Order on writ petition

Prima facie, the impugned order dated 25.10.2024 is grossly illegal for more than one reason. The foremost is that the inspection of the school was conducted at the dictate and command or rather the officious intervention of the District Magistrate, Sambhal through a Deputy Collector in his establishment, who has no business to inspect basic schools established by the Basic Siksha Parishad. The basic schools function under the control of the Basic Siksha Adhikari, who is answerable in line to the Additional Director (Basic), the Director, Basic Education and then the Secretary in the department of Basic Education headed by a Minister. The District Magistrate/Collector, who is essentially a Revenue Officer, has no role to play in supervision of schools, established by the Board of Basic Education. Therefore, *prima facie*, the direction by the District Magistrate, Sambhal to a Deputy Collector to inspect a school, established by the Board of Basic Education is absolutely without jurisdiction. Equally responsible is the Basic Siksha Adhikar, Sambhal, who succumbed to the said direction of the District Magistrate and did not tell him that he has no jurisdiction in the matter. The order of suspension is based on a joint report of the Deputy Collector and the Block Education Officer, both of whom inspected the school under the directions of the District Magistrate. This seems to bring in the element that the order impugned was passed at the dictate and command of the District Magistrate.

Even if that is set apart, the charges that have been mentioned in the impugned order in more than necessary detail at the stage of an order of suspension show poor performance of the petitioner as a Teacher. This may effect her future prospects of promotion or earning increments but certainly does not of itself constitute a charge of misconduct on the basis of which a major penalty, particularly a terminal one, could be imposed. Therefore, the discretion to suspend pending inquiry has been arbitrarily

exercised in this matter, *prima facie*.

A *prima facie* case is made out.

Admit.

Issue notice.

Notice on behalf of respondent nos. 1 and 2 is accepted by Mr. Brajesh Kumar Srivastava, learned Standing Counsel and that on behalf of respondent nos. 3 and 4 by Mr. Nagendra Kumar Pandey. Both the learned Counsel are granted two weeks' time to file a counter affidavit.

In particular, a personal affidavit shall be filed by the District Magistrate, Sambhal showing cause why he interfered in the functioning and supervision of a basic school established by the Basic Education Board leading to the impugned order dated 25.10.2024.

The Basic Siksha Adhikari, Sambhal shall show cause why she permitted the District Magistrate to intermeddle in the management and supervision of a basic school under her control in the district.

List for **orders** on **07.01.2025** by which time all affidavits shall be put in and a report regarding status of pleadings made by the Office.

Order on Civil Misc. Stay Application No. 1 of 2024

Issue notice.

Until further orders of this Court, operation of the impugned order dated 25.10.2024 passed by the District Basic Education Officer, Sambhal shall remain **suspended** and the petitioner shall be permitted to discharge her duties and paid salary regularly.

Let this order be communicated to the District Magistrate, Sambhal and the Basic Siksha Adhikari, Sambhal through the Chief Judicial Magistrate, Sambhal by the Registrar (Compliance) **within 24 hours**.

Order Date :- 12.12.2024

Vijay