

May, 2018, the respondents have rightly given up the aforesaid proposition."

11. Learned counsel for the petitioner-respondent states that even if that argument had not been given up, definitely the advertisement was made on 23.5.2018 and it was much before the date "31.10.2019" that the selection process was initiated. He also submitted that an administrative government order could only be prospectively applied unless it was specifically made retrospective. In this case, learned counsel for the petitioner-respondent submitted that the Government Order was issued much after the advertisement and, therefore, under no circumstance was the Government Order applicable in the instant case.

12. Having heard the learned counsel for the appellants and the learned counsel for the respondent-petitioners, we are definitely of the view that when the advertisement was published on 23.5.2018 then the Government Order issued on 31.10.2019 could not have any effect on the appointment process. What is more, we find that the State had when the Writ A No. 404 of 2022 was being argued surrendered this argument of theirs. So far as the question with regard to there being three names in the list which had to be sent by the Selection Committee as per the Rule 10 of the Rules of 1978 was there, suffice it to say that on the relevant date of interview, out of 7 candidates who had been called only two had appeared and, therefore, nobody under any law could have compelled the Selection Committee to do an impossible thing and that was to include a 3rd name. The maxim "lex non cogit ad impossibilia" and "Nemo Tenetur ad Impossibilia" applied on all fours in the instant case. Also, we are of the view that

when the proposition of law as had been laid down in the judgment and order dated 11.7.2022 in Writ – A No. 404 of 2022 had not been assailed in any court of law then that proposition could not be challenged in this Special Appeal. We, therefore, categorically hold that the instant special appeal was not maintainable at all.

13. We also hold that it was impossible for the Committee of Management to have sent the names of more than 3 candidates as only one candidate had turned up for the interview. That being the case, we are definitely of the view that there is no merit in the special appeal and it is accordingly dismissed. No interference is warranted in the order dated 10.1.2022 and it is accordingly upheld.

(2025) 3 ILRA 293
APPELLATE JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 12.03.2025

BEFORE

THE HON'BLE ARUN BHANSALI, C.J.
THE HON'BLE KSHITIJ SHAILENDRA, J.

Special Appeal No. 996 of 2024

Registrar Mahatma Jyotiba Phule Rohilkhand University, Bareilly & Anr.
...Appellants
Firoz Ahmad & Ors. ...Respondents

Counsel for the Appellants:
Shambhavi Tiwari for Rohit Pandey

Counsel for the Respondents:
Vijeta Singh, Alok Shukla, C.S.C.

Civil Law – Allahabad High Court Rules, 1952 – Chapter VIII - Rule 5 - U.P. St. University Act, 1973 - Chapter IV - Sections 13(1)(e), 16(4) & 51- Mahatma

Jyotiba Phule Rohilkhand University Ordinance – Ordinance 7(c)(3): - Intra court Appeal – against order of writ court – respondent took admission in three years LLB course – said course is comprised in six semesters – respondent appeared in semester examinations conducted from time to time - the university refused to issue a mark sheet and degree to a student - writ petition – plea taken by the University that the respondent was ineligible due to exceeding the time limit for the course, despite being allowed to appear for the back-paper exam and passing it - writ court allowed the writ petition – with direction to the university to issue the mark sheet and degree - special appeal - court finds that, University failed to scrutinize the respondent's eligibility before issuing the admit card and conducting the exam, - and the respondent had passed the concerned examination and completed the LL.B. course – held, the University being a statutory body, is not supposed to play with the career of a student as per its own convenience – Consequently, the appeal fails and is accordingly, dismissed. (Para –18, 20, 22, 23, 25)

Appeal Dismissed. (E-11)

List of Cases cited:

1. Shri Krishnan Vs The Kurukshetra University, Kurukshetra, (1976) 1 SCC 311,
2. Special Appeal (Defective) No.313/2024 - Mr. Iqtadaruddin Vs 3 St. of U.P. & ors.– Decided on 03.05.2024,
3. Vandana Srivastava Vs Principal, M.L.N. Medical College, 1986 AWC 165 ALL,
4. A.P. Christians Medical Educational Society & ors.Vs Govt. of Andhra Pradesh & ors., (1986) 2 SCC 667,
5. Kedar Lal Verma Vs The Secretary, Board of High School & Intermediate Education & ors., AIR 1980 All 32,
6. Sanatan Gauda Vs Berhampur University & ors., (1990) 3 SCC 23,
7. Ashok Chand Singhvi Vs University of Jodhpur & ors., (1989) 1 SCC 399,

8. Guru Nanak Dev University Vs Sanjay Kumar Katwal & ors., (2009) 1 SCC 610,
9. Shri Krishnan Vs Kurukshetra University, Kurukshetra, (1976) 1 SCC 311,
10. Mithilesh Kumar Chaudhary Vs St. of U.P. & ors., 2024 (5) AWC 4206 ALL,
11. Sukhpal Singh Sharma Vs Vice Chancellor, Gorakhpur University, Gorakhpur, 1982 ALL LJ 1021.

(Delivered by Hon'ble Kshitij Shailendra, J.)

1. Heard Ms. Shambhavi Tiwari, Advocate holding brief of Shri Rohit Pandey, learned counsel for the appellants, Ms. Vijeta Singh, learned counsel for respondent No.1 (writ petitioner) and learned standing counsel for Respondent No. 2 and perused the record.

THE CHALLENGE

2. The instant intra-court appeal assails validity of the order dated 30.09.2024 whereby the learned Single Judge has allowed Writ-C No.36854 of 2023 (Firoj Ahmad vs. State of U.P. and 3 others) and has directed the University to issue requisite mark-sheet to the petitioner therein and also a degree if the petitioner is otherwise eligible for the same.

FACTUAL MATRIX

3. The respondent No.1 (writ petitioner) (hereinafter referred to as 'the respondent') took admission in three years' LL.B. course in academic session 2016-17 in Classic College of Law, Bareilly affiliated to Mahatma Jyotiba Phule Rohilkhand University, Bareilly. The said course is comprised in six semesters. The respondent appeared in semester examinations conducted from time to time

and the dispute in the present appeal is as regards the back paper concerning sixth semester. The respondent appeared in the said back paper examination and even as per the assertions made on affidavit filed in support of stay application in the instant appeal, the respondent passed the same but his result was not declared on the ground that he had already completed maximum duration of the course, i.e., six years. Admittedly, the marks of the respondent were uploaded on the website of the University but mark-sheet was not issued to him and, therefore, the aforesaid petition was filed seeking a writ of mandamus commanding the authorities of University to issue mark-sheet.

ORDER OF THE LEARNED SINGLE JUDGE

4. Learned Single Judge, apart from placing reliance upon judgement of Hon'ble Supreme Court in **Shri Krishnan vs. The Kurukshetra University, Kurukshetra, (1976) 1 SCC 311** which was further considered in a recent Division Bench decision of this Court pronounced on 03.05.2024 in **Special Appeal (Defective) No.313 of 2024 (Mr. Iqtadaruddin vs. State of U.P. and others)**, considered the submission of the University based upon Ordinance 7(c)(3) whereby a student was required to pass three years' LL.B course within a maximum period of six years. Learned Single Judge held that since the University, after the academic session 2021-2022 was over, permitted the respondent to appear in the back paper in sixth semester in the year 2023 even after expiry of six years period, it was not justified in withholding the result.

SUBMISSIONS ON BEHALF OF THE APPELLANTS

5. Learned counsel for the appellants has vehemently argued that Ordinance 7(c)(3) governing the field clearly prescribes that in case a candidate fails to pass the course during the maximum period of six years, he will be deemed to have abandoned the course and shall not be re-admitted. Further submission has been made that the provisional admit card issued to the respondent clearly indicated that the result would be declared subject to eligibility of the candidate and, therefore, when the University examined the candidature of the respondent, it found him 'not eligible' to appear in sixth semester back paper and, consequently, result was rightly detained, inasmuch as, six years maximum period from the date of his admission had expired in academic session 2021-2022 and back paper was held in year 2023. Further submission is that judgement of **Mr. Iqtadaruddin** (supra) was a follow up of the decision of the Hon'ble Supreme Court in **Shri Krishnan** (supra), which was clearly distinguishable on facts, inasmuch as, in that case, the concerned Ordinance contained a requirement to issue a certificate signed by the Principal of the College/Head of the Department concerned certifying that the candidate has attended a regular course of study for the prescribed number of academic years, which certification would be provisional and could be withdrawn at any time before the examination. Submission is that in the present case, no such requirement is found in the Ordinance governing the examinations conducted by the University and a plain and simple reading of Ordinance 7(c)(3) would make it clear that after expiry of maximum period of six years, a candidate would be disqualified to go ahead with the course and, further, since provisional admit card issued to the

respondent contained a clear stipulation regarding declaration of result subject to his eligibility, the respondent has no case and, therefore, learned Single Judge has erred in issuing mandamus which would run contrary to the Ordinance. In support of her submissions, reliance has been placed on following decisions:-

(i). **Vandana Srivastava vs. Principal, M.L.N. Medical College, 1986 AWC 165 ALL;**

(ii). **A.P. Christians Medical Educational Society and others vs. Government of Andhra Pradesh and others, (1986) 2 SCC 667;**

(iii). **Kedar Lal Verma vs. The Secretary, Board of High School and Intermediate Education and others, AIR 1980 All 32.**

**SUBMISSIONS ON BEHALF
OF THE RESPONDENT (WRIT
PETITIONER)**

6. On the other hand, learned counsel for the respondent submitted that dates for filling up forms for concerned examinations were notified as w.e.f. 26.05.2023 to 11.06.2023; the respondent filled up form on 28.05.2023; provisional admit card was issued to him on 26.06.2023, concerned examination was held on 01.07.2023 and result was declared on 30.09.2023. Therefore, the University-authorities had ample time to verify the eligibility of the respondent qua his appearance in the concerned paper and once they accepted the form, got fees deposited and permitted him to appear in the back paper in which he also became successful, the appellants cannot withhold result on the pretext that the respondent

was later on found ineligible. Explaining the stipulations indicated in the provisional admit card (Annexure SA-3 to the Supplementary Affidavit dated 09.01.2025 filed in the appeal), it is urged that the clause-4 regarding declaration of result subject to eligibility of the candidate has to be read alongwith other clauses which speak of any fabrication made by the candidate and since it is not the case of the appellants that the respondent fabricated anything, withholding of result is not justified. In support of her submissions, reliance has been placed upon following decisions:-

(i). **Sanatan Gauda vs. Berhampur University and others, (1990) 3 SCC 23;**

(ii). **Ashok Chand Singhvi vs. University of Jodhpur and others, (1989) 1 SCC 399;**

(iii). **Guru Nanak Dev University vs. Sanjay Kumar Katwal and others, (2009) 1 SCC 610;**

(iv). **Shri Krishnan vs. The Kurukshetra University, Kurukshetra, (1976) 1 SCC 311;**

(v). **Mithilesh Kumar Chaudhary vs. State of U.P. and others, 2024 (5) AWC 4206 ALL;**

**SUBMISSIONS OF
APPELLANTS IN REJOINDER**

7. Learned counsel for the appellants submits that forms are filled up through online process and it is the College concerned which forwards the same to the University and if the College wrongly forwarded the respondent's form to the University, the same would not supersede Ordinance 7(c)(3), inasmuch as, the University had not granted direct permission to the petitioner to appear in the

examination, rather it was granted provisionally on the basis of verification done by the College at its level. It is further urged with reference to paragraphs 29 and 34 of the affidavit filed in the instant appeal that mistake committed at the end of the College would not create any right in favour of the respondent to further pursue the course and that mere permission granted to the respondent to appear in the examination, would not operate as estoppel against the University.

DISCUSSION, ANALYSIS AND FINDINGS

8. Admittedly, the University is governed by the provisions of Uttar Pradesh State Universities Act, 1973 (Act, 1973) and has to function as per the provisions contained therein. Chapter IV of the Act, 1973 describes various officers of the University including the Vice Chancellor and, as per Section 13(1)(e) thereof, he shall be responsible for holding and conducting the University examinations properly and at due time and for ensuring that results of such examinations are published expeditiously. For a ready reference, Section 13(1)(e) is reproduced as under :-

“13. Powers and duties of the Vice-Chancellor.- The Vice-Chancellor shall be the principal executive and academic officer of the University and shall-

.....

(e). be responsible for holding and conducting the University examinations properly and at due time and for ensuring that the results of such examinations are published expeditiously

and that the academic session of the University starts and ends on proper dates.”

9. Similarly, Section 16(4) of the Act, 1973 indicates duties of the Registrar of the University and is quoted hereunder:-

“16. The Registrar.-
.....

.....

(4). The Registrar shall be responsible for the due custody of the records and the common seal of the University. He shall be ex officio Secretary of the Executive Council, the Court, the Academic Council and the Admissions Committee and of every Selection Committee for appointment of teachers of the University, and shall be bound to place before these authorities all such information as may be necessary for the transaction of their business. He shall also perform such other duties as may be prescribed by the Statutes and Ordinances are required, from time to time, by the Executive Council or the Vice-Chancellor but he shall not, by virtue of this sub-section, be entitled to vote.”

10. It is, therefore, apparent that the officers of the University are under statutory obligation to discharge duties and perform functions as per the provisions contained in the Act of 1973. Such functions and duties are prescribed under the Statutes and Ordinances framed under the Act. Ordinances are framed under Section 51 of the Act, relevant sub-Sections whereof are reproduced, as under:-

“51. Ordinances.- (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for any matter

which by this Act or the Statutes is to be or may be provided for by the Ordinances.

(2). Without prejudice to the generality of the provisions of sub-section (1), the Ordinances shall provide for the following matters, namely-

.....

(c) the conditions under which students shall be admitted to the examinations, degrees and diplomas of the University and shall be eligible for the award of such degrees and diplomas;

.....

(m) the conduct of examination; ”

11. The concerned Ordinances of the University are titled as “LL.B. Three years (Six Semester) (Applicable from the academic year 2009-10 onwards); (Ordinance; General Rules, Examination Regulations and Course of Study with Amendments).” Ordinance 7(c)(3), as pressed into service by the University, reads as under:-

“7. (c) Ex-Student

.....

(3) A candidate shall be allowed to appear as ex-student/back paper for not more than three attempts in that paper subject to the condition that he will have to clear the LL.B. in maximum of Six Years. If he fails to pass the examination during this period, he will be deemed to have abandoned the course and shall not be readmitted.”

12. During the course of hearing, an order was passed on 04.12.2024 granting time to the appellants' counsel to indicate the date on which provisional admit card was issued to the respondent and the dates on which examinations were held. Pursuant thereto, a supplementary affidavit was filed stating that the concerned examination forms were filled up from 26.05.2023 to 11.06.2023 and, thereafter, from 14.06.2023 to 15.06.2023; the respondent filled up examination form on 28.05.2023; the examinations commenced from 01.07.2023 prior thereto, provisional admit cards were issued to all candidates including the respondent. Thereafter, by second supplementary affidavit, date of issuance of provisional admit card was indicated as 26.06.2023.

13. Therefore, even if, for a while, the stand of appellants as regards erroneous or wrongful acceptance of respondent's examination form by the College and its forwarding to the University after expiry of maximum period of six years is accepted as correct, the same, in our opinion, would not create a ground for the appellants to withhold the result of the respondent taking aid of the indication made in the provisional admit card, i.e., declaration of result subject to eligibility of the candidate. The relevant indications made in the provisional admit card are reproduced as under :-

“(1). Note:-आपके द्वारा परीक्षा फॉर्म में दिए गए अर्हता विवरण में भविष्य में कोई अनियमितता या कूटरचित तथ्य पाए जाने पर आपका परीक्षाफल निरस्त कर दिया जायेगा।

(2). Students failing to bring this Admit Card alongwith a valid Government issued photo identity proof shall not be allowed to appear in the examination.

(3). This Admit Card is provisional.

(4). The result shall be declared subject to eligibility of the candidate.”

14. Though the admit card has been described as provisional, on a pointed query made by the Court from the learned counsel for the appellants as to whether any Rules etc. framed by the University provide for issuance of provisional admit card, she answered in negative. Therefore, we proceed to examine the implication of issuance of a provisional admit card and test the stand of the University to withhold result.

15. A composite reading of all the aforesaid indications/stipulations made in the provisional admit card would infer that in case any irregularity or fabrication is found to have been made by the candidate as regards his eligibility while submitting the form, his result would be cancelled. The sequence of dates qua the back paper examination in question reflects that after the petitioner submitted the form on 28.05.2023 through online mode, may it be lying with the concerned college or was forwarded to the University, both had sufficient time to scrutinise or adjudge the respondent's eligibility to appear in the back paper. Apparently, provisional admit card was issued after four weeks from the date of submission of the form. If, during the said period of time, the College or the University failed to scrutinise the eligibility of the respondent and proceeded to issue a provisional admit card, the University cannot take a defence out of such inaction qua scrutiny as might be warranted. Not only this, even after issuance of provisional admit card on 26.06.2023, there was a gap of about one week before commencement

of examinations and this period could also be utilized for scrutinising as to whether the respondent should or should not have been allowed to appear in the examination.

16. When the Court raised a pointed query to the learned counsel for the appellants as to what had prevented the University to scrutinize the respondent's eligibility qua concerned examination with reference to the maximum period prescribed under Ordinance 7(c)(3), the answer was that there being large number of candidates appearing in the examinations, it is not possible for the University to scrutinise the candidature and once the examinations are over, the said exercise is undertaken and, then, as per the indication made in the provisional admit card, decision is taken to declare or not to declare the result of the concerned candidate.

17. Further, the instructions dated 25.02.2025 issued from the office of Examination Controller/Senior Assistant were placed before the Court indicating therein that the respondent's form had been filled up through online mode and since the candidates in the LL.B. Course are regular candidates, it is the duty of the College to forward examination forms of only eligible candidates. The instructions further reveal that there is no column in the examination form indicating ineligibility of the candidate. The stand taken in the instructions, when read with the statements on oath made in various affidavits filed on behalf of the appellants, would show that the University is putting a blame on the College in forwarding respondent's form terming the same to be a wrong committed by the College and justifying their decision only by taking shelter of the Note No.4 mentioned in the provisional admit card.

18. We are not impressed by the submissions advanced on behalf of the appellants. The University, being a statutory body, is not supposed to play with the career of a student as per its own convenience. When application forms are admittedly filled up through 'online mode', it was very convenient, rather necessary for the University or the College, as the case may be, to make a provision for a window/box/space on the online form itself or otherwise to check eligibility of a candidate at that very stage so as to either go ahead with the process of examination for a particular candidate or close the chapter to avoid future complications, as have arisen in the present case. If the University or the College took their task so casually and, by all means, allowed the respondent to appear in the back paper examination, they cannot get a defence arising out of their own action/ inaction. Further, admittedly, the petitioner has passed the concerned examination and has completed the entire LL.B. Course.

19. Now coming to the decisions cited on behalf of the appellants, a Co-ordinate Bench of this Court in **Vandana Srivastava (supra)** referred to a previous decision in **Sukhpal Singh Sharma vs. Vice Chancellor, Gorakhpur University, Gorakhpur, 1982 ALL LJ 1021** so as to observe that there could not be any estoppel against law and that the University could not be compelled by a direction of the Court to declare result of the students whose admissions were unlawful. The judgement does not come to the aid of the appellants, inasmuch as, **Vandana Srivastava (supra)** was a case where the concerned candidate had received a letter from the Medical College intimating her selection for admission to first year MBBS Course and calling upon her to appear on

03.09.1985 for examining her physical fitness and, soon thereafter on 11.09.1985 itself, a telegram was sent by the Under Secretary of the State of Uttar Pradesh to the Principal of the concerned Medical College intimating that the candidate's result had been wrongly declared treating her as a Scheduled Caste candidate and, therefore, her selection for admission in MBBS first year was cancelled. It was the said order which was assailed by the candidate Vandana Srivastava through writ petition and this Court dismissed the same by observing that she did not belong to Scheduled Caste category but to a higher caste and, hence, her admission was mistakenly made. The facts of the present case are entirely different and revolve around Ordinance 7(c)(3) read with all attending circumstances, i.e. acceptance of examination form qua the back paper held in last semester at the verge of course, issuance of provisional admit card, permitting the respondent to appear in the examination and then, despite the fact that he has been successful in the concerned paper, result has been detained taking aid of 4th note contained in the provisional admit card.

20. In **A.P. Christians Medical Educational Society (supra)**, it was held that the Court cannot direct the University to disobey the Statute to which it owes its existence and the Regulations made by the University itself. It is further observed therein that the students who have been admitted, have not only lost money which they must have spent to gain admission, have also lost one or two years of precious time virtually jeopardising their future career but they themselves are responsible for the said situation as they sought and obtained admission in the College despite the warnings issued by the University from

time to time. The facts of the instant case are entirely different, inasmuch as, the controversy before the Hon'ble Supreme Court had arisen from a situation where the Government of Andhra Pradesh had refused to grant permission to the concerned Society to start a medical college and the writ petition challenging the decision of the Government had been dismissed on the ground that no circumstances existed to justify compelling the Government to grant permission to the Society in view of the restrictions placed by an Expert Body like Medical Council of India that no further Medical College should be started. In the said case, students of a Medical College established by Daru-Salaam Educational Trust were permitted to appear in the examination notwithstanding the fact that affiliation had not been granted to the University. In such background of facts, the Hon'ble Supreme Court had dismissed the appeal filed by the Society and also writ petitions filed by the students. The factual background of the instant case being altogether different where no restriction in running the College or the course or any of the like nature exists, rather the issue before us is as to whether the University or its affiliated college is justified to withhold the result of the petitioner for the reasons stated above.

21. **Kedar Lal Verma** (supra) is also clearly distinguishable on facts. There, a learned Single Judge of this Court was seized of the matter where the concerned candidate had been declared "passed" in the High School mark-sheet given to him on the basis whereof he got admission in an Intermediate College. Later on, when his original mark-sheet was lost, he applied for duplicate one which, when issued, declared him as 'failed' in the High School Examination. Consequently, the writ petition was filed in

which the U.P. Board of High School and Intermediate Education took a defence that previously issued mark-sheet contained a clerical mistake and as per the regulations, a student offering Science subject was required to secure 33% marks, both in practical and theory and since the petitioner had obtained only 19 marks in theory as against required 24 marks, he was rightly declared as "failed". Considering the argument based upon estoppel as raised on behalf of the concerned candidate, the learned Single Judge came to the conclusion that mistake committed by the Authorities would not confer any benefit upon the candidate.

22. The instant case arises out of altogether a different situation where the University is taking a stand that on scrutiny made after the petitioner had passed examination, it stood revealed that his form had been wrongly forwarded by the College after expiry of the maximum period of completion of the course. The Court has already dealt with various stages of issuance of examination form, provisional admit card, conduct of examination, respondent's appearance in the examination, the respondent having passed the entire course vis-a-vis the duty and responsibility of the University and/or College to scrutinize the candidature of the respondent prior to permitting him to appear in the examination. Once they did not perform obligation cast on them, they cannot detain result of the respondent merely on the pretext that the provisional admit card contained an indication regarding declaration of result subject to eligibility. The concerned 4th Note cannot be read in isolation but alongwith other attending circumstances as noted above.

23. In **Guru Nanak Dev University** (supra), relied upon by the respondent, the Supreme Court dealt with a

case where the candidate took admission through the Common Entrance Test during 2004-2005, he was permitted to appear in the first semester examination, he was not found guilty of any suppression or misrepresentation of facts and though he was informed about his ineligibility after he took admission in the first semester examination, he was permitted to continue course and completed the same in 2007. The University had earlier cancelled the admission of the candidate which was challenged before the High Court. The writ petition was allowed by the Punjab and Haryana High Court and the Hon'ble Supreme Court, after placing reliance upon **Shri Krishnan** (supra) and **Sanatan Gauda** (supra) found the action of the University withholding the result on account of candidate's ineligibility as unjust and, accordingly, disposed of the matter in favour of the candidate.

24. In **Sanatan Gauda** (supra), the candidate was admitted in the law college, he was pursuing his studies for two years and was permitted to appear in the concerned examinations and it was only at the stage of declaration of his result that the University raised an objection qua his so-called ineligibility to be admitted to the course. The matter was decided by the Hon'ble Supreme Court in favour of the candidate and against the University and even a direction was issued to the University authorities to frame rules in clear terms so as to avoid multiple interpretations of a rule which may entail cost in terms of several years of life of a student. **Ashok Chand Singhvi** (supra) is also an authority of the Supreme Court on the same lines.

25. In view of the above discussion, we do not find any error in the

order of the learned Single Judge. Consequently, the appeal fails and is, accordingly, **dismissed**.

(2025) 3 ILRA 302
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 11.03.2025

BEFORE

THE HON'BLE PRAKASH PADIA, J.

Writ - A No. 6586 of 2024

Shafique Ahmed ...Petitioner
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioner:

Gaurav Gautam, Krishna Kant
Vishwakarma, Rajesh Kumar Singh

Counsel for the Respondents:

C.S.C., Pranav Mishra

(A) Service Law - Non-government aided minority Institution - Education - U.P. Non-Government Arabic and Persian Madarsa Recognition Rules, 1987 (amended 2016) - Rule 8 of Government Order dated 29.01.1996 (creation of posts requiring State approval) - Validity of withdrawal of financial approval for appointment/promotion of a teacher in a Madarsa - Approval granted 30 years ago cannot be withdrawn on the ground that the post was not created by the Competent Authority.(Para -23)

Petitioner served as Assistant Teacher Tahtania since 1988 - receiving salary from State Exchequer since 1995 - Promoted to Assistant Teacher Fauquania in 2021 - financial approval granted but salary withheld - Respondent No. 2 withdrew financial approval citing non-sanctioned post creation without State Government permission. (Para - 4 to14)

HELD: - Petitioner was entitled to all consequential benefits. Approval had been granted 30 years ago and could not be