

Court No. - 4

Case :- WRIT - C No. - 39522 of 2024

Petitioner :- Committee Of Management Mahila Gram Inter College Subedarganj And Another

Respondent :- State Of Up And 4 Others

Counsel for Petitioner :- Adarsh Singh, Ajeet Singh, Indra Raj Singh

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar, J.

1. Petitioners before the Court is a recognized private aided Institution and is affiliated to U.P. Board of High School and Intermediate Education for the purposes of board examinations of High School and Intermediate.

2. It is contended on behalf of the petitioners that petitioners' Institution is basically meant for girls' education which imparts education right from the Class I to XII and gives free education up to Class VIII. It is contended that about 1200 students are enrolled in the Institution and students of Class X and XII will be appearing in the Board Examination to be conducted by the U.P. Board of High School and Intermediate Education, scheduled to be held sometimes in the month of February and March.

3. Petitioners are aggrieved by the ex-parte decision/order taken by the District Magistrate to acquire 8 rooms and other utility services of the Institution available in the Institution to station Forces of the State to meet any emergent situation to arrest any kind of mishap on account of Magh Mela being organized on the banks of river Ganga and Yamuna.

4. Learned counsel for the petitioners submits that though the action has been taken under Disaster Management Act, 2005 but the properties of the private institutions could not have been acquired, inasmuch as, there are various schools and colleges available in the city area where large field area is lying vacant and the District Magistrate could have acquired those places. It is further argued on behalf of the petitioners that though the Government Inter College is almost in the city area and other schools as well close to Magh Mela area but that places have not been acquired. Thus, he pleaded discrimination also.

5. It is further argued on behalf of the petitioners that the Board of

High School and Intermediate Education which is governed under the State Government, has not postponed the Board Examination for the Magh Mela period beginning from the mid of January, 2025 till the Mid of the March, 2025 and the students will be facing hardships in their studies during the period and also the institutions will be facing hardships in conducting the Board Examination.

6. Learned counsel for the petitioners further submits that Right to Education is a Fundamental Right and, therefore, the action taken by the District Magistrate that too without putting to notice to the Institution and seeking its reply at least, is totally an arbitrary action and the order, therefore, deserves to be annulled.

7. Learned Standing Counsel has placed instructions before the Court which have been taken on record and according to which, he submits that in view of the provisions as contained under Section 23 read with Section 30 of the Disaster Management Act, 2005, the District Magistrate is fully empowered to acquire such buildings and area which may be necessary to carry out the disaster management exercise properly. He further submits that as many as 48 institutions and their buildings have been acquired though partially and that all are aided institutions including certain Government Colleges also, which includes big halls of the Government Inter College too. Thus, it is pleaded that the petitioners cannot take the plea of discrimination.

8. He further submits that building of Minority Institutions have been left out from requisition.

9. Having heard learned counsel for the respective parties and having perused the instructions that have been placed before the Court, I find that the area in main buildings in the institutions have been taken over to house the Forces to meet emergent situation on account of Magh Mela being organized for a period beginning from 01.11.2024 till 02.03.2025 and this is the period in which the scheduled dates of Board Examination would fall. The acquisition of buildings of the educational institutions, which are affiliated to the U.P. Board of High School and Intermediate Education, would in the *prima facie* view of the Court, cause immense difficulties not only to the students but also to the management of the institutions in conducting the Board Examinations until and unless the Government takes the decision to shift the Board Examinations to further future dates.

10. The stand to forcefully requisition places of schools and

colleges when annual exams are around the corner, can only be taken as unfortunate because the students studying in other districts will be enjoying full facilities and better arrangements during this period and participation in the examination of Board so also the institutions would be able to manage a proper conduct of the Board Examinations but because of the Magh Mela being organized in the city of Allahabad, the students and institutions are being made to suffer. It is difficult to understand and perceive as well as to how the State Government has not taken care of the education of students and the proper conduct of the examination of Board during this very period.

11. Let the Additional Chief Secretary (Home) U.P., Lucknow and Additional Chief Secretary (Secondary Education) U.P., Lucknow file their personal affidavits as to how they would ensure proper conduct of the Board Examination during this period when part of the buildings of private aided institutions affiliated to the Board are being taken over and further how would they provide adequate facilities to these institutions in terms of rooms and places to conduct Board Examinations and home examinations as well.

12. They would also explain as to why the open places and fields of educational institutions falling in the heart of the city having not been taken over for these purposes.

13. If the proper affidavits are not filed on the next date fixed, both the Secretaries will be appearing in person before this Court.

14. Put up this matter as fresh on 17.12.2024 on the top of the board of fresh cases.

15. Registrar (Compliance) of this Court shall communicate this order to the Additional Chief Secretary (Home) U.P., Lucknow and Additional Chief Secretary (Secondary Education) U.P., Lucknow for necessary compliance.

Order Date :- 6.12.2024
S.A.