

**Court No. - 7**

**Case :-** WRIT - A No. - 7825 of 2024

**Petitioner :-** C/M Krishi Audyogik Vidyalaya Aau And Another

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

**Counsel for Petitioner :-** Hritudhwaj Pratap Sahi, Samarath Singh, Sankalp Narain, Sr. Advocate

**Counsel for Respondent :-** C.S.C.

**Hon'ble Prakash Padia, J.**

1. Following order was passed by this Court on 10.12.2024:-

*"On 18.09.2024 the following order was passed:*

*"1. Pursuant to the order passed by this Court, personal affidavit of respondent No.1/Special Secretary, (Basic Education) Government of U.P. Lucknow has been filed today in the Court, the same is taken on record.*

*2. It is admitted between learned counsel for the parties that the matter is still active consideration before the State Government in respect of which a meeting is going to be held on today, i.e, on 18.09.2024.*

*3. In the interest of justice, put up this matter as fresh on 04.10.2024.*

*4. On the aforesaid date, learned Standing Counsel will apprise the Court regarding the outcome of the meeting held today."*

*The affidavit filed on behalf of the State is not satisfactory. There is ambiguity about the time line in the appointments of Headmasters and teachers will be processed. Duet to large vacancies of teachers the quality of education imparted in the State is being compromised.*

*Principal Secretary (Basic Education) is expected and directed to accord urgency to the process of appointment of teachers and headmasters and come up with the clear cut time line for initiation of the process of recruitment of teachers and headmasters.*

*Shri Shubhranshu Shekhar Singh, learned Additional Chief Standing Counsel to file a personal affidavit of Principal Secretary (Basic Education) on the next date of listing.*

*Rejoining affidavit filed on behalf of the petitioners is taken in the record.*

*Put up this case on 28.01.2025 in the list of fresh cases. "*

2. Pursuant to the same, a personal affidavit has been filed by the Principle Secretary (Basic Education), Government of U.P., Lucknow today in the Court, the same is taken on record.

3. It is stated in paragraph-5 of the aforesaid affidavit that institution in question

namely Krishi Audyogik Vidyalaya Aau, Atarra, District - Banda is a permanently recognized institution up to the level of Junior High School and in terms of Government Order No. 1346/15-6-34-7(2)/84 dated 17.11.1984 it was included in the grant-in-aid list, therefore, recruitment of teachers in non-government aided institutions has been done in terms of provisions of the Uttar Pradesh Recognized Basic Schools (Junior High School) (Teacher Recruitment and Service Conditions) Rules 1978, as amended.

4. It is further stated in paragraph-7 of the aforesaid affidavit that as per the Government Order dated 04.12.2019, the vacancies for the posts of Principal and Assistant Teacher are to be filled on the basis of recommendations received from the District Education Officer through the Director of Basic Education, Uttar Pradesh, Lucknow. It is further stated in paragraph-8 of the affidavit that in terms of amended Service Rules 1978 (Seventh Amendment) 2019 and in compliance with the circular issued by the Directorate dated 30.12.2019, instructions were issued to all District Basic Education Officers to provide a list of vacant posts of Principal and Assistant Teacher in non-government aided junior high schools.

5. In view of the aforesaid, the Directorate issued letters dated 02.11.2020 and 13.02.2021, requesting the Examination Regulatory Authority of Uttar Pradesh, Prayagraj to convene the examination for 390 Principal posts and 1507 Assistant Teacher posts. Pursuant to the same, examination were conducted and results were declared.

6. In the meanwhile, certain writ petitions were filed against the publication of the aforesaid result, in which an interim order was passed by this Court vide order dated 01.12.2022 and 22.03.2023. Ultimately all the aforesaid writ petitions in question were dismissed on 15.02.2024 and thereafter due to enforcement of the notification for the General Elections of Lok Sabha, no further actions were taken in the recruitment process. Thereafter inter-departmental consultations was held and after receiving the considered proposal from the Director General of School Education, Uttar Pradesh Lucknow, on 01.07.2024, further action was delayed due to the necessity of obtaining financial and legal advice from the Finance and Law departments.

7. It is further stated in paragraph-14 of the affidavit that series of letters were written by the Government to the Director General of School Education, Uttar Pradesh, Lucknow directing to provide a clear report/proposal to the Government in light of the provisions of Rule 10(1)(k) and Rule 21 of the Uttar Pradesh Recognized (Junior High Schools) Teachers Recruitment and Service Conditions Rules, 2019. It is further stated in paragraph-15 of the aforesaid affidavit that since the matter involves policy issues some procedural time is required to ensure compliance with all statutory and procedural requirements. Hence, two months time was sought for to complete the necessary process.

8. Heard counsel for the parties and perused the record.

9. From perusal of the aforesaid it is clear that inspite of the time granted by this Court again and again and inspite of the fact that the letters were written by the State Government to the Director General of Schools, Education, U.P. Lucknow to submit a clear report/proposal till date no proposal has been forwarded by him.

10. It is well known fact throughout the State of U.P. that the students are suffering due to non-availability of Principals and Assistant Teachers. In so far as present case is concerned, it is clear that inspite of the repeated request made by the institution till date the necessary orders were not passed by the authorities to fill up the posts of Principal and Assistant Teacher. The right to education is a fundamental right and from perusal of the facts as narrated above it is clear that the respondents are violating the fundamental rights guaranteed to the citizens under the Constitution of India.

11. In this view of the matter, Director General of School Education, Uttar Pradesh, Lucknow is directed to file his personal affidavit within a period of ten days from today regarding the delay on his part in submitting his report pursuant to the letters written by the State Government as stated above.

12. Registrar (Compliance) is directed to communicate the copy of this order to the Director General of Education, Uttar Pradesh, Lucknow through Special Secretary, U.P. Govt., Lucknow within 24 hours.

13. Put up this matter as fresh on 17.02.2025.

**Order Date :- 31.1.2025**

Swati