



2026:AH:17766

Reserved on:- 13.01.2026

Delivered on:- 27.01.2026

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 11217 of 2025

Chandra Prakash Singh and 4 others

.....Petitioner(s)

Versus

State of U.P. and 4 others

.....Respondent(s)

Counsel for Petitioner(s)	: Siddharth Khare, Sr. Advocate
Counsel for Respondent(s)	: C.S.C.

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. Learned counsel for the petitioners states that he does not propose to file rejoinder affidavit. Therefore, with consent of the parties this petition is being decided finally without calling for further affidavits.

2. Heard Sri Ashok Khare, learned Senior Counsel assisted by Sri Aditendra Singh, learned counsel for the petitioners and Sri Anoop Trivedi, learned Additional Advocate General assisted by Sri Ashish Kumar Nagvanshi, learned Additional Chief Standing Counsel for the State-respondents.

3. The present writ petition has been filed *inter-alia* for the following reliefs:-

“(i) a writ, order or direction in the nature of certiorari quashing the order dated 04.06.2025 passed by the Director of Education (Basic), U.P. Lucknow.

(ii) a writ, order or direction of a suitable nature commanding the respondent to adjust/absorb the petitioners in some other recognized and aided Junior High School of District Gorakhpur with all consequential benefits thereof within a period to be specified by this Hon’ble Court.

(iii) a writ, order or direction of a suitable nature commanding the respondent to disburse the regular monthly salary to the petitioner no.1, 3 and 5 and regular monthly pension to petitioner no.2 and 4 regularly, every month.

(iv) a writ, order or direction of a suitable nature commanding the respondent to disburse all arrears of salary from September 2018 to the petitioners within a period to be specified by this Hon'ble Court including the arrears of pension to petitioner no.2 and 4 within a period to be specified by this Hon'ble Court.

(v) a writ, order or direction in the nature of which this Hon'ble Court may deem fit and proper under the circumstances of the case.

(vi) award cost to the humble petitioner throughout of the present writ petition."

4. Placing the brief facts of the case, learned counsel for the petitioners submits that Kishan Shiksha Prasar Mandal, Gorakhpur, is a society registered under the Societies Registration Act, 1860, which has established a Junior High School under the name of Baba Surya Narayan Das Laghu Madhyamik Vidyalaya, Sirsia, Bhathat, Gorakhpur, which was also receiving grant-in-aid from the State Government. Accordingly, the aforesaid institution is governed by the provisions of the UP Basic Education Act, 1972 (hereinafter referred to as 'the Act, 1972'); the UP Recognized Basic Schools (Junior High Schools) (Recruitment & Conditions of Service of Teachers) Rules, 1978 (hereinafter referred to as 'the Rules, 1978'); the UP Recognized Basic School (Junior High School) (Recruitment and Conditions of Service of Ministerial Staff & Group D Employees) Rules, 1984 (hereinafter referred to as 'the Rules, 1984'); and the UP Junior High School (Payment of Salary to Teachers & Other Employees) Act, 1978 (hereinafter referred to as 'the Act, 1978').

5. He further submits that the institution in question was brought into the grant-in-aid list by the Government Order issued on 02.12.2006.

6. The petitioner no.1 was duly selected for the post of Assistant Teacher and was accorded approval by the Basic Shiksha Adhikari, Gorakhpur, by order dated 18.09.2015. Accordingly, the Committee of Management of the institution issued an appointment letter dated 10.10.2015, pursuant to which Petitioner No. 1 joined on 14.10.2015.

7. Petitioner No. 2 was duly selected as an Assistant Teacher, and approval was accorded by the concerned Basic Shiksha Adhikari by order dated 13.05.1986. The financial approval was also granted to the petitioner by the Assistant Director of Education (Basic) vide order dated 16.11.2007. Petitioner No. 2 joined the institution on 01.07.1986.

8. Petitioner No. 3 was duly selected and appointed as Clerk, and the relevant papers were placed before the Basic Shiksha Adhikari on 20.01.2012, but no orders were passed. As a result, the selection was deemed approved in accordance with Rule 15 of the Rules, 1984. An appointment order dated 26.02.2012 was issued by the Committee of Management of the institution, pursuant to which he joined the institution on 01.03.2012.

9. Petitioner No. 4 was duly selected for appointment as a Class-IV employee of the institution, and the appointment was approved by the concerned Basic Shiksha Adhikari by order dated 23.06.1989. Financial sanction for the payment of salary to Petitioner No. 4 was ordered by the Assistant Director of Education (Basic) vide order dated 31.10.2013.

10. The petitioner no.5 was also selected for appointment as a Class-IV employee. The approval was accorded by the concerned Basic Shiksha Adhikari, Gorakhpur, vide order dated 22.11.1991. Financial sanction was granted by the Assistant Director of Education (Basic) by order dated 24.02.2009.

11. The petitioners continued to work in the institution on their respective posts continuously since the date of their appointments. The petitioners were paid salary from the Government grant from December 2006 till August 2018. However, the salary of the petitioners was withheld from the month of August 2018.

12. It appears that some complaint was lodged against the institution/management, on the basis of which the Assistant Director of Education (Basic), Gorakhpur/Basti Division, passed an order dated

22.04.2017, superseding the Committee of Management and appointing the Khand Shiksha Adhikari as Authorized Controller. Subsequently, on 05.09.2018, an order was passed by the Basic Shiksha Adhikari, Gorakhpur, whereby the permanent recognition accorded by the order dated 02.05.1985 was revoked, and the students studying in the institution were directed to be adjusted in other institutions.

13. The aforesaid order dated 05.09.2018 was challenged by the Committee of Management by filing Writ Petition No. 32781 of 2018, which was dismissed by the learned Single Judge by judgment and order dated 27.09.2018. The aforesaid order was subsequently challenged in Special Appeal No. 1184 of 2018, wherein no interim order was passed.

14. Learned counsel for the petitioners submits that though the order dated 05.09.2018 referred to the adjustment of students in other institutions, it is conspicuously silent with regard to the adjustment of the staff members of the institution (both teaching and non-teaching).

15. As the salary of the petitioners was withheld from the month of August 2018, they represented before the District Magistrate, Gorakhpur, seeking clarification regarding their adjustment in other institutions, as was done for the students studying in the institution whose recognition was revoked.

16. The District Magistrate, Gorakhpur, accordingly sought clarification from the Basic Shiksha Adhikari, who responded through a communication dated 16.10.2018. He also sent a letter addressed to the Additional Director of Education (Basic), seeking guidance with regard to the members of the staff of the institution.

17. When nothing was done, the petitioners filed Writ-A No. 26118 of 2018¹, seeking for a direction to the authorities to absorb the petitioners in equivalent Junior High Schools in District Gorakhpur and permit them to function on their respective posts, as they were functioning in the

¹ (Chandra Prakash & 4 Others vs. State of U.P. and Others)

earlier institution whose recognition was cancelled. They further prayed for the regular payment of their salary on a month-by-month basis.

18. The aforesaid writ petition was finally disposed of by the learned Single Judge by order dated 05.03.2025, wherein the petitioners were permitted to provide all necessary papers and documents on which they had relied, as well as a copy of the counter-affidavit filed by the respondents in the aforesaid writ petition before the Director of Education (Basic), Lucknow. Upon receiving these, the Director of Education (Basic) was expected to pass appropriate orders in accordance with the law.

19. In compliance with the aforesaid order, a representation dated 18.03.2025 was placed before the Director of Education (Basic), wherein a notice dated 21.03.2025 was provided to all concerned, and finally, the representation of the petitioner came to be rejected by the order dated 04.06.2025, which is the order impugned.

20. Learned counsel for the petitioners submits that the aforesaid order dated 04.06.2025 has been passed in an arbitrary and discretionary manner, as in an identical circumstance case, teaching and non-teaching staff have been adjusted in other institutions.

21. He further submits that by the order dated 23.09.2020 issued by the State Government, the members of the staff and the students of Thakur Shiv Narayan Singh Purva Madhyamik Vidyalaya, Bhagwanpur Bazar, Maharajganj, were directed to be absorbed in an aided Junior High School in the vicinity.

22. The Government Order dated 15.01.2019 also visualized a rationalization of the staff members in recognized and aided Junior High Schools, as well as the adjustment of surplus teachers, which has been ignored in the passing of the impugned order.

23. The impugned order dated 04.06.2025 has been passed in the absence of provisions for such adjustment in the 1978 Rules. However,

when the Rules are silent about absorption, it cannot be inferred that the petitioners cannot be absorbed in other institutions on their respective posts, as has been done in similarly situated cases. Therefore, the impugned order has been passed in an arbitrary and discriminatory manner.

24. It is undisputed that the petitioners were duly appointed members of the staff of the institution and were receiving their salary regularly from the government grant. The cancellation of the institution's recognition is not due to any fault of the petitioners; therefore, they cannot be penalized and are entitled to adjustment in other institutions in their respective posts.

25. The cancellation of the recognition of the institution where the petitioners were appointed, was beyond their control. Therefore, the order canceling or revoking the institution's recognition, with a direction for the absorption of students in other institutions, similarly requires that similar directions be issued for the absorption of the institution's staff members. Hence, the impugned order is liable to be set aside.

26. In the counter affidavit filed in Writ Petition No. 26118 of 2018 (Chandra Prakash & 4 Others vs. State of U.P. and Others), it was stated that the then District Basic Education Officer was awaiting proper directions from the Director of Education (Basic) regarding the absorption of teaching and non-teaching staff of the institution. However, without waiting for such directions, the impugned order was passed. Therefore, the order is unjustified in the eyes of the law.

27. In the counter affidavit filed on behalf of the respondent-BSA, it has been specifically averred that Baba Surya Narayan Das Lower Middle School, Sirsiya, Bhathat, Gorakhpur, was an aided and recognized Junior High School, having been granted permanent recognition by the Deputy Director of Education, VIIth Region, Gorakhpur, vide order dated 22.05.1985. The institution was brought under the grant-in-aid list by the Government Order dated 02.12.2006, and the salaries of its teaching and

non-teaching staff were paid under the provisions of the U.P. Junior High School (Payment of Salaries of Teachers and Other Employees) Act, 1978, as amended from time to time.

28. After receiving a complaint dated 22.01.2016 regarding the fraudulent recognition obtained by the aforesaid institution, the Chief Development Officer conducted an inquiry, wherein it was found that Plot No. 173, measuring 0.291 hectare, was recorded as Panchayat Bhawan land in the revenue records, and the school building, courtyard, and playground were situated upon it, which is contrary to the relevant rules.

29. A three-member committee was also constituted under the chairmanship of the District Magistrate, Gorakhpur, which submitted a report in this regard, finding that the school building and playground were indeed situated on Panchayat land, recorded as Plot No. 173, measuring 0.291 hectare.

30. The Sub-Divisional Magistrate, Sadar, Gorakhpur, vide letter dated 14.08.2018, informed that the Manager of the institution had filed a case under Section 101 of the U.P. Revenue Code, 2006, which was dismissed on merits on 09.08.2018.

31. Subsequently, in Case No. 4184 of 2017 (Gram Sabha vs. Surya Narayan), under Section 87 of the U.P. Revenue Code, 2006, the Court of the Tehsildar (Judicial), Sadar, Gorakhpur, ordered eviction of the institution, namely, Baba Surya Narayan Das L.M.V. from Plot No. 173, measuring 0.291 hectare, and imposed a compensation of Rs. 19,860/- along with the costs of execution proceedings.

32. Accordingly, in view of the aforesaid, the District Basic Education Officer, Gorakhpur, vide order dated 05.09.2018, withdrew the permanent recognition of the institution and directed that all the students be transferred to nearby Government institutions, namely P.M.V. Gehari, P.M.V. Ghosa Deur, and Mudila.

33. The teaching and non-teaching staff of the institution filed Writ Petition No. 26118 of 2018, wherein this Hon'ble Court, vide order dated 05.03.2025, directed the Director of Education (Basic), U.P., Lucknow, to pass an appropriate order on their representation within three weeks from the date of the order.

34. In compliance with the aforesaid order, the representation of the petitioners was rejected on 04.06.2025 on the ground that adjustment in any other aided Junior High Schools was not permissible under the U.P. Recognized Basic Schools (Junior High Schools) (Recruitment and Conditions of Service of Teachers) Rules, 1978, as amended.

35. In view of the fact that the recognition of the institution in question has been withdrawn on the basis of forged and false records, the request made by the petitioners, who were teaching and non-teaching staff of such an institution, could not be considered, as there is no provision for transfer or adjustment upon the withdrawal of recognition under the 1978 Rules.

36. The writ petition filed against the withdrawal of recognition, being Writ Petition No. 32781 of 2018, has also been dismissed by the Coordinate Bench of this Court by a detailed and reasoned order dated 27.09.2018. Thus, in light of the same, the petitioners are not entitled to adjustment or transfer to any other institutions.

37. The petitioners have also sought adjustment/transfer based on the Government Order dated 15.01.2019, which is misconceived, as the same is not applicable to the facts of the present case. The said Government Order pertains only to situations where, due to a fall in student strength, certain teaching and non-teaching employees of duly recognized and aided institutions are declared surplus and permitted to draw salary until their superannuation.

38. In the present case, since the recognition of the institution itself was withdrawn due to serious irregularities found during the inquiry, the petitioners cannot be adjusted or transferred to any other institution.

39. As regards the submission made by learned counsel for the petitioners, referring to the Government Letter dated 23.09.2020, wherein the Government directed the District Magistrate, Maharajganj, to take necessary action in respect of an unauthorizedly constructed school on Gram Sabha land and to accommodate its staff and students in a nearby aided school, the District Basic Education Officer, Maharajganj, vide order dated 30.12.2023, issued with the approval of the District Magistrate, Maharajganj, adjusted one Headmaster and four Assistant Teachers in Chingudram P.M.V., Kolhui Brijmanganj, and Kisan Junior High School, Mahdeiya Nautanwa, District Maharajganj. The aforesaid order dated 30.12.2023 was subsequently confirmed by the office of the Director of Education (Basic), U.P., Lucknow, vide letter dated 14.08.2025, and reaffirmed by the District Basic Education Officer, Maharajganj, through communication dated 18.08.2025, though during the course of argument, learned counsel for the respondents submits that this has not been done as there is no provision under the Rules of 1978, as amended from time to time, for the adjustment or absorption of teaching and non-teaching staff upon the withdrawal of recognition of any aided Junior High School.

40. As this Court has taken serious note of the aforesaid issue, to which learned counsel for the respondents has undertaken to write to the higher authorities regarding the aforesaid fact. However, counsel also submits that the petitioners cannot claim negative equality for the present relief as prayed for. In support of his contention, he has relied upon the judgment of the Apex Court in the case of **State of Odisha and another vs. Anup Kumar Senapati and another**².

41. I have heard learned counsel for the petitioners and learned Standing Counsel and perused the records.

² (2019) 19 SCC 626

42. It is well settled that teachers working in an institution whose recognition has been cancelled do not acquire any vested or enforceable right to claim adjustment or absorption in any other recognized institution. Recognition of an educational institution constitutes the statutory foundation for the validity of appointments made therein, and once such recognition is withdrawn, the institution ceases to exist as a recognized entity in the eyes of law. The appointments of teachers, being co-terminus with recognition, automatically lose their legal sanctity. In the absence of any express statutory provision, rule, or government policy providing for adjustment or absorption, no writ of mandamus can be issued to the State authorities or to other recognized institutions. Claims based on equity, hardship, or length of service cannot override the clear mandate of law, and courts cannot create service rights by judicial fiat where the statute is silent.

43. The plea of the petitioners seeking adjustment or absorption on the ground that similarly situated teachers have been accommodated elsewhere is wholly misconceived. It is a settled principle of constitutional jurisprudence that Article 14 embodies the doctrine of positive equality and does not countenance the concept of negative equality. An illegality or irregular benefit extended to any individual does not create a precedent nor confer a legal right upon others to claim similar treatment. Where the statute does not provide for absorption of teachers of a derecognised institution, no right can be founded merely on the basis that some persons may have been granted such benefit erroneously. Courts cannot perpetuate an illegality under the guise of equality.

44. In the case of **State of Bihar v. Kameshwar Prasad Singh**³, the Apex Court has held as under:-

“30. The concept of equality as envisaged under Article 14 of the Constitution is a positive concept which cannot be enforced in a negative manner. When any authority is shown to have committed any illegality or irregularity in favour of any individual or group of individuals, others cannot claim the same illegality or irregularity

3 (2000) 9 SCC 94

on the ground of denial thereof to 9 them. Similarly wrong judgment passed in favour of one individual does not entitle others to claim similar benefits. In this regard this Court in *Gursharan Singh v. New Delhi Municipal Committee* 24 held that citizens have assumed wrong notions regarding the scope of Article 14 of the Constitution which guarantees equality before law to all citizens.”

45. In the case of **Union of India v. Kartick Chandra Mondal**⁴, the Apex Court has held as under:-

“Even assuming that the similarly placed persons were ordered to be absorbed, the same if done erroneously cannot become the foundation for perpetuating further illegality. If an appointment is made illegally or irregularly, the same cannot be the basis of further appointment. An erroneous decision cannot be permitted to perpetuate further error to the detriment of the general welfare of the public or a considerable section.”

46. In the case of **Basawaraj v. Special Land Acquisition Officer**⁵, the Hon’ble Supreme Court has held as under:-

“8. It is a settled legal proposition that Article 14 of the Constitution is not meant to perpetuate illegality or fraud, even by extending the wrong decisions made in other cases. The said provision does not envisage negative equality but has only a positive aspect. Thus, if some other similarly situated persons have been granted some relief/benefit inadvertently or by mistake, such an order does not confer any legal right on others to get the same relief as well. If a wrong is committed in an earlier case, it cannot be perpetuated. Equality is a trite, which cannot be claimed in illegality and therefore, cannot be enforced by a citizen or court in a negative manner. If an illegality and irregularity has been committed in favour of an individual or a group of individuals or a wrong order has been passed by a judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing a similarly wrong order. A wrong order/decision in favour of any particular party does not entitle any other party to claim benefits on the basis of the wrong decision.”

47. Recognition of an educational institution is the statutory foundation for its lawful existence. Appointments of teachers made therein derive their validity solely from such recognition. Once recognition is cancelled by the competent authority, the institution ceases to function as a recognised institution in the eyes of law, and the appointments of teachers, being co-terminus with recognition, automatically lose their legal sanctity.

4 (2010) 2 SCC 422

5 (2013) 14 SCC 81

48. It is a settled principle of service jurisprudence that absorption or adjustment is not an inherent or vested right of an employee. Such right can accrue only when it is expressly provided by statute, statutory rules, or a specific government policy. In the absence of any such enabling provision, teachers of a derecognised institution cannot seek a writ of mandamus commanding the State authorities or the management of other recognised institutions to absorb or adjust them.

49. Claims founded on sympathy, hardship, or length of service cannot override the clear mandate of law. Courts cannot create service rights by judicial fiat where the statute is silent. Mere cancellation of recognition, unlike government-ordered closure or statutory takeover, does not give rise to any obligation on the part of the State to provide alternative employment.

50. In the case of **State of Maharashtra v. Vikas Sahebrao Roundale and others**⁶, the Apex Court has held that appointments in an educational institution are dependent upon its recognition; once recognition is withdrawn, such appointments cannot subsist.

51. Be that as it may, the teachers of the institution, whose recognition has been cancelled, have no right to claim absorption or adjustment in other institutions in the absence of statutory provisions, and equitable considerations cannot be invoked to confer a right contrary to statutory rules or where statutes are silent on the issue in question.

52. Teachers working in an institution whose recognition has been cancelled cannot, as a matter of right, claim adjustment or absorption in any other recognised institution. Such relief can be granted only when expressly authorised by statute or government policy. In the absence thereof, no legal or enforceable right survives.

53. In view of the aforesaid discussion and settled legal position, the claim of the petitioners seeking adjustment/absorption in other

⁶ (1992) 4 SCC 435

recognized institutions is wholly misconceived and devoid of merit. Hence, no interference is called for.

54. However, on the statement made by the learned Additional Advocate General appearing on behalf of the State, this Court directs the Principal Secretary, Department of Basic Education, Government of Uttar Pradesh, Lucknow, to issue appropriate circulars forthwith clarifying that the absorption or adjustment of teachers, whose parent institution has lost recognition, does not confer any vested, accrued, or enforceable right, unless such absorption is expressly sanctioned under the relevant statutory provisions.

55. The Principal Secretary shall undertake a comprehensive scrutiny of all cases where teachers have been absorbed or adjusted pursuant to the cancellation of recognition of the institutions in which they were initially appointed. Upon such scrutiny, if it is found that the absorption or adjustment has been made dehors the statutory rules or without authority of law, necessary corrective action shall be taken strictly in accordance with law.

56. It is made clear that no claim based on equity, sympathy, long continuance in service, or administrative lapse can be sustained where the initial absorption or adjustment itself is contrary to statutory provisions. There can be no estoppel against statute, and any action taken in violation of the governing rules cannot be protected merely on equitable considerations.

57. The Court further observes that permitting such illegal absorptions or adjustments would be violative of Articles 14 and 16 of the Constitution of India, as it would amount to conferring undue advantage upon certain individuals at the cost of other eligible candidates who may have been deprived of equal opportunity in public employment. However, before taking any adverse action, the concerned teachers shall be afforded a reasonable opportunity of hearing, in compliance with the principles of natural justice.

58. The entire exercise shall be completed expeditiously, preferably within a period of six months from the date of receipt of a certified copy of this order, and the Principal Secretary shall ensure strict compliance in its true letter and spirit.

59. Registrar Compliance is directed to communicate this order to the Principal Secretary, Department of Basic Education, Government of Uttar Pradesh, Lucknow as well as Principal Secretary (Law) & L.R., Government of U.P., Lucknow, for its compliance forthwith.

60. With the aforesaid directions and observations, the writ petition stands **disposed of**.

(Mrs. Manju Rani Chauhan,J.)

January 27, 2026

Jitendra/-