

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**Civil Appeal Nos 6305-6306 of 2021**

[Arising out of SLP(C) Nos 16521-22 of 2021]

[Arising out of SLP(C) Diary No.5349/2021]

**State of Uttar Pradesh & Ors.**

**.... Appellant(s)**

**Versus**

**Committee of Management, Colvin Taluqdar's Inter  
College & Ors.**

**....Respondent(s)**

**ORDER**

1 Leave granted.

2 The appeals by the State of Uttar Pradesh arise from two orders of the Division Bench of the High Court of Judicature at Allahabad at the Lucknow Bench dated 7 March 2019 and 5 April 2019.

3 The first order of the High Court dated 7 March 2019 governed Special Appeal Nos 205, 206 and 207 of 2015 filed by the Committee of Management of Colvin Taluqdar's Inter College, Lucknow through its Manager. The Special Appeals were directed against an order of the Single Judge dated 17 April 2015 in a bunch of writ petitions, being WP No 2502 (S/S) of 2004, WP No 3817 (S/S) of 2005 and WP No 121 (S/S) of 2005. When the Special Appeals came up before the Division Bench of the High Court at Lucknow, they were dismissed as not pressed on the request of the counsel for the management. The final order that was passed was in the following terms:

“On the request of Sri V.R. Singh these Special Appeals are dismissed as not pressed.

“The appellants will be at liberty to send the salary bills to the District Inspector of Schools concerned as per the statute, as soon as possible.”

- 4 Subsequently, an application being CMA No 36488 of 2019, styled as an application for clarification/modification of the order dated 7 March 2019, was filed by the Committee of Management. It was urged on behalf of the Committee of Management that in a contempt proceeding which was initiated before the Single Judge, a direction was issued that insofar as the payment of back wages is concerned, it is the Management who is responsible and not the State Government. The Management submitted that it was due to the order of the Single Judge in the contempt petition that it has been “forced to seek clarification of the order dated 7 March 2019”. On the application for “modification/clarification”, the Division Bench passed the following order:

“On the basis of the arguments of Sri V.R.Singh supported by Sri G.C.Verma we feel that there is no doubt that the payment has to be made by the State Government.

Since the applicants/appellants are willing to submit the bills to the State Government, hence the obligation on the part of the applicants/appellants will be fulfilled by submitting the bills to the State Government. Further action will have to be taken by the State.”

- 5 The tenor of the order dated 5 April 2019 indicates that it was virtually passed with the consent of the management and the concerned teachers. The State is in appeal.

- 6 The Registry has reported a delay in filing the Special Leave Petitions against both the orders of the Division Bench dated 7 March 2019 and 5 April 2019. Strictly speaking, the earlier order dated 7 March 2019 caused no prejudice to the State of Uttar Pradesh since by that order the Special Appeals were dismissed as not pressed and the Management was granted liberty to send the salary bills to the District Inspector of Schools “as per the statute, as soon as possible”. It is the second order dated 5 April 2019 which has caused prejudice to the State since in disposed of Special Appeals, the Division Bench has proceeded to issue substantive directions requiring the State of Uttar Pradesh to bear the financial burden of paying salaries.
- 7 We have heard Mr V K Shukla, Senior Counsel appearing on behalf of the appellants and Mr Vivek Raj Singh, Senior Counsel appearing on behalf of the Committee of Management on whose application the impugned order dated 5 April 2019 was passed. Sufficient cause has been shown for condoning the delay in challenging the orders dated 5 April 2019 and the delay is accordingly condoned.
- 8 Having heard counsel, we are of the view that the course of action which was adopted by the Division Bench of the High Court was irregular, to say the least. Once the Special Appeals were disposed of as not pressed, there was no occasion for the High Court, in purported exercise of its jurisdiction, on an application for “modification/clarification” to pass an order foisting a financial obligation upon the State. Such an order could not have been passed in disposed of Special Appeals which had been withdrawn by the Committee of Management. We are unable to subscribe to this course of action of the Division Bench of the High Court.

- 9 For the reasons which we have indicated above, we set aside the impugned judgment and order of the High Court dated 5 April 2019. We, however, clarify that the appeals have been allowed by disapproving the course of action which has been followed by the High Court in entertaining the application for modification/clarification in a batch of disposed of Special Appeals. This will, however, not preclude the parties from pursuing their rights and remedies in accordance with law. Mr Vivek Raj Singh states that the Committee of Management may be advised to apply for restoration of the Special Appeals. We clarify that we have not made any observations in that regard on the merits of their respective entitlements. The appeals are allowed in the above terms.
- 10 Pending application, if any, stands disposed of.

.....J.  
**[Dr Dhananjaya Y Chandrachud]**

.....J.  
**[B V Nagarathna]**

**New Delhi;  
October 08, 2021  
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