

ITEM NO.25

COURT NO.11

SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 6233/2020

(Arising out of impugned final judgment and order dated 31-10-2019 in WC No. 4163/2005 passed by the High Court Of Judicature At Allahabad)

M/S. N.R. MODERN SCHOOL KOTLA,
GANGOH SAHARANPUR THROUGH ITS
MANAGER SMT. UMA SHARMA

PETITIONER

VERSUS

STATE OF U.P. & ORS.

RESPONDENTS

(IA No. 46205/2021 - APPLICATION FOR PERMISSION, IA No. 34070/2020 - EXEMPTION FROM FILING O.T., IA No. 44043/2021 - INTERVENTION/IMPLEADMENT)

Date : 19-03-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Petitioner(s) Mr. U K Uniyal, Sr. Adv.
Mr. D K Garg, Adv.
Mr. Dhananjay Garg, AOR
Mr. Ishaan Tiwari, Adv.
Ms. Ishita Bist, Adv.
Mr. Abhishek Garg, Adv.

For Respondent(s) Mr. Abhishek Vikas, AOR
Mr. Ranjeet Kumar, Adv.
Mr. Saket Singh, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

1. The petitioner is aggrieved by the order dated 31st October, 2019, passed by the learned Single Judge of the High Court of Allahabad

dismissing the writ petition filed by the Manager (Ms. Uma Sharma) of the School against an order dated 20th September, 2001 passed by the Assistant Provident Fund Commissioner, Meerut and the order dated 05th January, 2005, passed by the respondent no.3-Recovery Officer, Regional/Assistant Provident Fund Commissioner, Meerut. *Vide* order dated 20th September, 2001, the respondent no.2 held that the Employee Provident Fund Act and Miscellaneous Provisions Act¹, 1952, was rightly extended to the petitioner establishment w.e.f. 01st September, 1995, as it satisfies the condition of having employed more than 20 employees.

2. Pertinently, though a remedy of appeal was available to the petitioner-School against the aforesaid order, it did not avail of the said remedy. The petitioner got activated on issuance of an attachment order by the respondent no.3 on 05th January, 2005, demanding a sum of ₹4,42,654/- (Rupees Four Lakhs Forty Two Thousand and Fifty Four) towards the principal and ₹1,22,130/- (Rupees One Lakh Twenty Two Thousand One Hundred and Thirty) towards interest payable. Further, the petitioner was restrained from transferring the properties mentioned in the said notice.

3. *Vide* the impugned order, the learned Single Judge dismissed the writ petition filed by the Manager of the petitioner-School on the ground that the principal order passed under Section 7A of the Act, dated 20th September, 2001, had not been assailed and only the consequential attachment order

1 For short the 'Act'

was questioned by the petitioner. Further, the learned Single Judge noted that the principal order was passed against the petitioner-School herein and so was the attachment order, but the School was not even joined as a party in the writ proceedings.

4. We have heard learned counsel for the parties. After addressing arguments for some time, learned Senior Counsel appearing for the petitioner-School submits that the petitioner school was being run by a Society, registration whereof was cancelled in October, 2003. For the past over two decades, the school has not been functional. He further states that the property in question attached by respondent no.3 *vide* order dated 05th January, 2005, belongs to the Manager and not the Society.

5. A perusal of the notice of attachment order reveals that the immovable property in question has been described as land and building of *"M/s N.R. Modern School, now known as M/s Prakash JHS, Gangoh (Kotla), Saharanpur"*.

6. On enquiring from learned Senior Counsel for the petitioner as to whether any school is still running from the aforesaid premises, after some reluctance, it is confirmed by Ms. Uma Sharma, Manager of the School who is present in Court, that some children are being taught from the very same premises from where a school is running now under the name, *"M/s Prakash JHS, Gangoh (Kotla), Saharanpur"*.

7. That being the position, we are not inclined to interfere in the present petition, which is accordingly dismissed.

(POOJA SHARMA)
COURT MASTER (SH)

(NAND KISHOR)
COURT MASTER (NSH)