

**Court No. - 41**

**Case :-** WRIT - C No. - 16220 of 2019

**Petitioner :-** C/M Shri Syadavad Mahavidyalaya

**Respondent :-** State Of U.P. And 4 Others

**Counsel for Petitioner :-** Aklank Kumar Jain, Sri Ashok Khare  
(Senior Advocate)

**Counsel for Respondent :-** C.S.C., Shashi Kumar

**Hon'ble Neeraj Tiwari, J.**

Heard Sri Ashok Khare, learned Senior Counsel assisted by Sri Aklank Kumar Jain, learned standing counsel for respondent nos. 1, 2 and 3 and Sri Shashi Kumar, learned counsel for respondent no. 5.

Present petition has been filed challenging the order dated 20.04.2019 passed by District Inspector of Schools, Varanasi by which the order of single operation has been passed under the provision of section 5(1) of the U.P. High Schools and Intermediate Colleges (Payment of Salaries of Teachers and other Employees) Act, 1971 on the ground that even after direction issued by the Authorities, Manager has not paid the salary of respondent no. 5 for three months i.e. November, 2016 to January, 2017 and further G.P.F loan has also not been given to him.

Sri Ashok Khare, learned Senior Counsel submitted that respondent no. 5 has been paid salary up to the month of October, 2016 and again continuously being paid salary from February, 2017. So far as non-payment of salary from November, 2016 to January, 2017 is concerned, respondent no. 5 was not in service. In fact, Chancellor of the University has terminated the service of the respondent no. 5 which was challenged before this Court by filing Writ-A No. 17690 of 2006 and on the strength of interim order, he was continuing in service but ultimately the petition was dismissed vide order dated 5.10.2016, thereafter, respondent no. 5 has approached the Apex Court by filing Petition(s) for Special Leave to Appeal No. 7223 of 2017 in which he was granted interim order on 10.04.2017. As during that period, he was not in service and as there was no interim order in his favour, therefore, he has not been paid salary. It is further submitted that petitioner has no objection to pay the salary to respondent no. 5 from November, 2016 to January, 2017 subject to final decision of Special Leave to Appeal No. 7223 of 2017 which is pending before the Apex Court and further submitted that for payment of G.P.F. loan, certain documents were required which were not produced by

respondent no. 5, therefore, the same could not be paid.

Sri Shashi Kumar, learned counsel for respondent no. 5 submitted that deliberately, petitioner is not paying the salary and G.P.F. loan of respondent no. 5 for which he has provided all required documents.

Learned standing counsel appearing for the State submitted that order has been passed only for the reason that payment of salary has not been made to respondent no. 5 even after direction of authorities and in case, petitioner is ready to pay the amount as mentioned in the impugned order dated 20.04.2019, Court may quash the same.

Considering the facts and circumstances of the case, order dated 20.04.2019 passed by District Inspector of Schools, Varanasi is quashed.

Petitioner is directed to forward the salary bill of respondent no. 5 of November, 2016 to January, 2017 within one month from today to concerned State Authorities to enable them to pay the salary to respondent no. 5. Respondent no. 5 is further directed to provide all relevant documents to the petitioner for payment of G.P.F. loan within two weeks from today. In case document is provided by respondent no. 5, petitioner is directed to consider the same and forward the paper of G.P.F. loan to the concerned State Authorities within four weeks thereafter for necessary payment.

In case salary bill of respondent no. 5 of November, 2016 to January, 2017 and papers for payment of G.P.F. loan have not been forwarded by the petitioner within the time given by the Court, it is open for respondent no. 2 to pass fresh order against the petitioner as required under the law.

With the aforesaid observations, writ petition is **allowed**.

No order as to costs.

**Order Date :- 10.5.2019**

Sartaj