



**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - C No. - 37031 of 2025**

Sunbeam Womans College

.....Petitioner(s)

Versus

Union Of India And 4 Others

.....Respondent(s)

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| Counsel for Petitioner(s) | : | Ajay Kumar Singh, Tejas Singh   |
| Counsel for Respondent(s) | : | A.S.G.I., Charlie Prakash, Kamal Krishna Roy, Ramesh Kumar, Santosh Singh |

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**Court No. - 1**

**HON'BLE AJIT KUMAR, J.**

**HON'BLE SWARUPAMA CHATURVEDI, J.**

1. Heard Sri A.K. Singh, learned Senior Advocate assisted by Sri Tejas Singh, learned counsel for the petitioner, Sri Purnendu Kumar Singh, learned counsel for respondent nos. 1, 2, 3 and 4, Sri Ramesh Kumar, learned counsel for respondent no. 5, Sri Rajeev Gupta, learned Additional Chief Standing Counsel for the State respondents.
2. Learned counsel for the petitioner is permitted to implead State of U.P. through Additional Chief Secretary, Secondary Education, Lucknow as respondent no. 6 during course of the day.
3. Learned Additional Chief Standing Counsel is directed to accept notice on behalf of respondent no. 6.
4. It is argued on behalf of the petitioner institution that the Maternity Benefit Act, 1961 shall not apply to the educational institution unless and until it is notified under proviso to Section 2(1) of the Maternity Benefit Act, 1961 which requires concerned State Government to issue notification in the official gazette for application of the Act with the approval of the Central Government and yet till date, no such notification has come to be issued. He also placed reliance upon the judgement of the High Court of Kerala in the case of *Chairman, PSM College of Dental Science & Research Bye Pass Road vs. Reshma Vinod and Others*, 2024:KER:36579 in support of his argument. Para nos. 7 and 8 of the judgment is reproduced here under:-

*"7. No one can doubt that the Maternity Act is a beneficial legislation and has to be liberally interpreted. However, the question under consideration is whether the provisions of the Maternity Act would be applicable to the educational institutions which are not shops or establishments falling within the meaning of Kerala Shops & Establishments Act or under any other law.*

*8. The Supreme Court in the case of Ruth Soren (supra) has held that the educational institution will not come within the definition of "establishment", carrying on any business, trade or profession or any work in connection with, or incidental or ancillary thereto. Under the provisions of Bihar Shops and Establishments Act, 1953 which has paramateria provisions to the Kerala Shops and Establishments Act, 1960, an "establishment" for the purposes of the Act would mean that establishment which carries on any business or trade or profession or anywork in connection with, or incidental or ancilliary thereto. The concept of industry as defined under the Industrial Disputes Act would include any business, trade, undertaking, manufacture or calling of employees and includes any calling service, employment, handicraft or industrial occupation or avocation of workmen. In an educational institution, there is an organised activity between employers and employees to impart education. Such an activity, though may be industry, however, would not be a profession, trade or business for the purpose of Article 19(1)(g) of the Constitution, would not be one falling within the definition of establishment under the Act. "Establishment" as defined under the Act, is not as wide as "industry" as defined under the Industrial Disputes Act. The Supreme Court held that an educational institution is not an establishment under the provisions of Shops and Establishments Act."*

5. It is thus sought to be contended that the concerned respondent Commission has exceeded its authority in passing the order impugned directing for reinstatement and extending the benefit of the Maternity Benefit Act, 1961.

6. Matter requires consideration.

7. It is a case where the State becomes necessary party for the reason that

State was under obligation to notify the Act while it was in existence for the benefit of the people who were working in various establishments and accordingly we direct the State Government to come up with the affidavit as to what action it had taken, if any, to implement the Maternity Benefit Act, 1961 as amended in the year 2017.

8. All the respondents are directed to file a detailed counter affidavit within a period of four weeks. Reply, if any, may be filed within two weeks thereafter.

9. List this petition on 23.03.2026 for final disposal.

10. In the meanwhile, until further orders of this Court, it is hereby provided that status quo, as on date, shall be maintained regarding employment of the respondent no. 5 with the petitioner institution.

11. It is made clear that the case will be disposed of on the next date fixed without granting any unnecessary adjournment to either of the parties.

**(Swarupama Chaturvedi,J.) (Ajit Kumar,J.)**

**February 3, 2026**

#Vikram/-