

Court No. - 18

Case :- WRIT - C No. - 20186 of 2021

Petitioner :- C/M, Madarsa Anjuman Islamia Faizul Uloom
And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Mohammad Ali Ausaf, Sr.
Advocate(Shri G.K. Singh)

Counsel for Respondent :- C.S.C.

Hon'ble Ajay Bhanot, J.

Heard Shri G. K. Singh, learned Senior Counsel assisted by Shri Mohammad Ali Ausaf, learned counsel for the petitioner; Shri H. N. Singh, learned Senior Counsel who was requested to assist the Court and has ably assisted the Court and learned Standing Counsel for the State.

The petitioner Institution is a Madrasa duly recognized by the Madrasa Board and is granted aid by the State Government.

The State Government to file counter affidavit within a period of four weeks. While filing the counter affidavit, the State Government shall bring in the record the syllabi/courses, conditions and standards of recognition including the requirement for playgrounds at the Madrasas and all other religious institutions which are recognized or aided by the State Government. Further it shall be disclosed whether Madrasas so recognized and aided also admit girl students.

The State Government shall also indicate in its affidavit the details of various other Boards of education with recognize and institutions imparting theological education of other religious sects.

While filing the counter affidavit the State is also directed

to shine light on the following aspects of the controversy.

Prima facie from the submissions at the Bar following questions may arise for consideration after exchange of affidavits:

I. Whether the policy of the State Government to provide financial aid to educational institutions which impart religious education is consistent with the scheme of the Constitution, particularly, in light of the word "Secular" in the Preamble to the Constitution of India?

II. Whether Government funding of institutions run by religious minorities which impart religious education faithfully implements the constitutional protection afforded to all religious faiths especially religious minorities in the country, especially with reference to provisions of the Constitution from Articles 25 to 30 of the Constitution of India?

III. Whether the institutions which impart knowledge in diverse fields and also include courses in theological learning come within the ambit of the phrase "religious instruction or religious worship" or only schools which exclusively impart religious education come within the ambit of Article 28 of the Constitution of India?

IV. Whether absence of a mandatory provision for playground for recognition even for Madrasas and other religious institutions is incompatible with the rights of children conferred by Article 21 read with Article 21A of the Constitution of India?

V. Whether other religious minorities are also provided government aid for running theological schools?

VI. Whether there is a prohibition against women from applying as students in religious schools and if so whether such bar is an act of discrimination prohibited by the Constitution?

Put up this case on 06.10.2021 in the list of fresh cases.

Order Date :- 19.8.2021

Dhananjai