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HIGH COURT OF JUDICATURE AT ALLAHABAD

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HIGH COURT OF JUDICATURE AT ALLAHABAD
WRIT - A No. - 11862 of 2025

Rajneesh Upadhyay and 14 others

⚡..Petitioner(s)

Versus

The State of U.P. and 2 others

⚡..Respondent(s)

Counsel for Petitioner(s) : Adarsh Singh, Shivendu Ojha, Sneha Pandey, Sr. Advocate
Counsel for Respondent(s) : C.S.C.

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. Heard Mr. Adarsh Singh, learned counsel for the petitioners, Mr. Anoop Trivedi, learned Additional Advocate General assisted by Mr. Ashish Kumar Nagvanshi, learned Additional Chief Standing Counsel for the State and Mr. Abhishek Singh, learned counsel for the respondent no. 4.
2. The present writ petition has been filed challenging the two impugned orders dated 29.07.2025 passed by the Additional Chief Secretary, Department of Social Welfare, Government of Uttar Pradesh / respondent no. 1. The petitioners have further sought a writ, order or direction restraining the respondents from interfering with their peaceful functioning as Assistant Teachers in their respective institutions and for a consequential direction to the respondents to ensure payment of their salary as and when the same falls due.
3. The petitioners have also assailed the reports dated 25.04.2025, 13.06.2025, 17.06.2025 and 23.06.2025 submitted by the District Basic Education Officer, Mau, as well as the consequential orders dated 18.07.2025 and 12.12.2025 passed by the State Government.
4. Placing the brief facts learned counsel for the petitioners has submitted that the petitioners, fifteen in number, were appointed as Assistant Teachers by the respective Committees of Management of non-government private institutions, which are duly recognized by the Uttar Pradesh Board of Basic Education and receive financial aid from the Social Welfare Department, Government of Uttar Pradesh, confined to the payment of salary to the teaching staff.
5. It is submitted that the appointments of the petitioners were made during the period commencing from 15.07.2010 and extending up to 07.10.2016, in accordance with the applicable statutory provisions and after obtaining the requisite approval of the District Basic Education Officer, Mau. Learned counsel has further submitted that the appointments were not made clandestinely or dehors the prescribed procedure; rather, the same were subjected to scrutiny by the competent authority and received the approval of the District Basic Education Officer.
6. The particulars relating to the date of appointment of each petitioner, the approval accorded by the District Basic Education Officer, the approval, wherever applicable, granted by the State Government, and the educational/professional qualifications possessed by the respective petitioners are set out hereinbelow:
Sl. No. Name of Petitioner Date of Approval by BSA, Mau Date of Approval by State Govt. (Social Welfare Department) Qualification
1. Rajneesh Upadhyay 15.06.2011 27.04.2017 B.A., B.Ed. Bridge Course
2. Shriram 15.06.2011 27.04.2017 B.A., B.Ed. Bridge Course
3. Manoj Kumar Rai 15.06.2011 27.04.2017 B.A., B.Ed. Bridge Course
4. Surendra Kumar Bharti 16.07.2012 14.06.2017 B.A., B.Ed. Bridge Course
5. Ritu Singh 16.07.2012 14.06.2017 B.A., B.Ed. Bridge Course
6. Raghvendra Kumar Mishra 23.05.2013 27.04.2017 B.A., B.Ed. TET

7. Shama 23.05.2013 27.04.2017 B.A., B.Ed. TET
8. Upama Gautam 23.05.2013 27.04.2017 B.A., B.Ed.
9. Rakesh Kumar Dixit 15.07.2010 20.12.2016 B.A., M.A., B.Ed. Bridge Course
10. Bandana Kaushal 24.02.2016 03.04.2017 B.A., B.T.C., TET
11. Abhishek Kumar Dubey 07.04.2016 27.12.2016 B.A. B.Ed. M.Ed. TET Bridge Course
12. Rama Pyare Prasad 25.07.2016 04.12.2017 B.A., B.Ed., TET
13. Mukesh Kumar Yadav 07.10.2016 30.06.2017 B.Com., B.Ed., TET, Bridge Course
14. Harikesh Yadav 26.12.2011 03.01.2017 B.A., B.P.Ed.
15. Beena Rai 26.07.2011 10.07.2017 B.A. B.Ed.

7. Learned counsel for the petitioners has further submitted that the respective Committees of Management of the institutions concerned had obtained prior permission from the competent authority for initiating the process of recruitment. Pursuant thereto, advertisements were duly published in widely circulated newspapers, inviting applications from eligible and qualified candidates for appointment to the posts in question.

8. It is further submitted that, thereafter, duly constituted Selection Committee undertook the selection process in accordance with the prescribed procedure and, upon completion thereof, recommended the names of the candidates found suitable for appointment. The recommendations of the Selection Committee were forwarded to the then District Basic Education Officer, Mau, who, upon consideration of the relevant records and the selection proceedings, accorded his approval to the selection of the petitioners. Consequent thereto, the respective Committees of Management issued appointment letters in favour of the petitioners.

9. Learned counsel has placed reliance upon the aforesaid material to contend that the appointments of the petitioners were preceded by the requisite permission, due advertisements and constitution of the Selection Committees. Selections were made in accordance with the prescribed procedure and followed by the grant of approval by the competent authority. The relevant documents in support of the aforesaid submission have been brought on record along with the counter affidavits filed by the respective Committees of Management.

10. It is further submitted by learned counsel for the petitioners that, after the appointments had been made by the respective Committees of Management and approval thereto had been accorded by the District Basic Education Officer, Mau, the records relating to the appointments of the petitioners, along with the approval granted by the District Basic Education Officer, were duly processed and placed before the State Government for grant of financial approval.

11. The manner in which the records were transmitted through the administrative hierarchy has been explained as: the District Basic Education Officer, Mau, forwarded the relevant records, including the approval accorded by him to the selection and appointment of the petitioners, to the District Social Welfare Officer, Mau. The District Social Welfare Officer, in turn, forwarded the said records, together with the approval of the District Basic Education Officer, to the Director, Social Welfare, Uttar Pradesh, Lucknow, for necessary action.

12. Thereafter, the Director, Social Welfare, Uttar Pradesh, Lucknow, forwarded the records so received, along with the approval granted by the District Basic Education Officer in respect of the petitioners, to the Special Secretary, Government of Uttar Pradesh, for consideration and grant of financial approval.

13. It is the specific case of the petitioners that the State Government, upon scrutiny of the records forwarded by the office of the Director, Social Welfare, Uttar Pradesh, Lucknow, including the approval already accorded by the District Basic Education Officer, considered the appointments of the petitioners and granted financial approval thereto by separate orders. The said orders granting financial approval have been brought on record as Annexure-3 to the writ petition.

14. Learned counsel has placed particular reliance upon the aforesaid financial approvals to contend that the appointments of the petitioners were not merely acted upon by the respective Committees of Management or approved at the district level, but were subsequently examined by the competent authorities at different levels of the administrative hierarchy and were ultimately accorded financial approval by the State Government. The aforesaid facts have been pleaded by the petitioners, inter alia, in paragraphs 11, 36 and 37 of the writ petition.

15. It is submitted that, after the grant of financial approval by the State Government, the petitioners continued to receive their salary regularly. However, the payment of salary was subsequently withheld pursuant to the order dated 26.02.2018 passed by the District Magistrate, Mau, purportedly in connection with an inquiry into the appointments of the petitioners. In addition thereto, an F.I.R. dated 24.02.2018 was lodged as Case Crime No. 89 of 2018 at Police Station Sarai Khansi, District Mau, under Sections 419, 420, 466, 467, 468 and 471 of the Indian Penal Code, against several persons, including the Managers of the concerned institutions and the teachers appointed therein, including the present petitioners.

16. The aforesaid action of withholding the salary was assailed by the petitioners, as well as other similarly situated teachers of District Mau, by instituting various writ petitions before this Court. One such petition was Writ-A No. 9770 of 2018, Rajesh Tiwari and 10 Others v. State of U.P. and 9 Others. The said writ petition came to be disposed of by this Court by judgment and order dated 23.04.2018, after calling for and considering the instructions furnished by the District Social Welfare Officer, Mau.

17. By the aforesaid judgment, this Court directed the respondents to ensure payment of salary to the petitioners on a month-to-month basis. At the same time, liberty was reserved to the respondents to examine the matter relating to the appointments of the petitioners and, upon such examination, to pass appropriate orders in accordance with law with regard to any inquiry concerning their appointments. Thus, while ensuring continuity in the payment of salary to the petitioners, this Court left it open to the competent authorities to examine the legality of their appointments in accordance with law.

18. It is further submitted that, pursuant to the liberty reserved by this Court in the aforesaid proceedings, the Director, Social Welfare, Uttar Pradesh, Lucknow, by order dated 10.08.2018, constituted a three-member Inquiry Committee to examine the allegations relating to alleged irregularities in the appointments of the petitioners. The Inquiry Committee conducted a detailed inquiry after affording due opportunity to the concerned persons and examined the relevant material, including the relevant

judgments, statutory provisions, rules, Government Orders and the procedure and practice prevailing in respect of appointments in institutions receiving aid from the Social Welfare Department.

19. Upon completion of the inquiry, the Inquiry Committee submitted its detailed report dated 28.11.2018 before the Director, Social Welfare, Uttar Pradesh. The said report was thereafter forwarded to the State Government for appropriate action. Upon consideration of the report, the State Government, by order dated 24.07.2019, took a decision in respect of the appointments examined in the inquiry and cancelled the approval granted to the appointments of four teachers, namely, Sirajuddin Ahmed, Karan Kumar, Deepak Mishra and Santosh Kumar Yadav, on the ground that their educational qualifications could not be verified. Significantly, the appointments of the present petitioners were neither cancelled nor otherwise interfered with. The petitioners consequently continued in service and continued to receive their salaries, their appointments having not been found illegal either by the Inquiry Committee or by the State Government.

20. The criminal proceedings arising out of the F.I.R. dated 24.02.2018 also culminated in favour of the petitioners. Upon investigation, the Investigating Officer submitted a final report dated 07.06.2020, recording that no offence was found to have been committed by the petitioners in securing their appointments. The said final report was duly accepted by the competent court. Thus, according to the petitioners, the legality of their appointments had not only been examined in the departmental inquiry, but the same had also survived the decision taken by the State Government and the criminal investigation arising from the very allegations relating to their appointments.

21. It is submitted that, despite the aforesaid proceedings having attained finality in the manner noticed hereinabove, the matter relating to the appointments of the petitioners was sought to be reopened several years thereafter on the basis of questions raised in the Legislative Assembly concerning the appointment of Assistant Teachers after the year 2014 in institutions receiving aid from the Social Welfare Department.

22. According to learned counsel for the petitioners, it was pursuant to the aforesaid questions raised in the Legislative Assembly that the respondent no. 1 passed the impugned order dated 29.07.2025, directing the District Magistrate, Mau, to conduct a fresh inquiry into the appointments of teachers made after the year 2014 in institutions aided by the Social Welfare Department. On the very same date, i.e. 29.07.2025, another order came to be passed whereby the appointments of the petitioners were alleged to have been secured by practising fraud, and directions were issued for registration of an F.I.R. and for recovery of the salary paid to the petitioners. Consequent thereto, payment of salary to the petitioners was stopped.

23. Learned counsel for the petitioners further submits that, acting pursuant to the directions of the District Magistrate, Mau, several inquiries were thereafter undertaken at the level of the District Social Welfare Officer, Mau. In the course thereof, the District Social Welfare Officer sought reports from the District Basic Education Officer, Mau, particularly with regard to the availability and existence of the approvals relating to the appointments of the petitioners in the relevant dispatch records.

24. It is the specific grievance of the petitioners that the District Basic Education Officer, Mau, furnished the aforesaid reports without issuing any notice to the petitioners, without affording them any opportunity of hearing and, more importantly, without conducting any inquiry into the matter. Such reports were submitted by communications dated 25.04.2025, 13.06.2025, 17.06.2025 and 23.06.2025, which have been assailed in the present proceedings.

25. The District Social Welfare Officer, Mau, is stated to have relied upon the aforesaid reports and, without associating the petitioners with the proceedings or affording them an opportunity of hearing, passed the impugned order dated 18.07.2025, directing the Managers of the respective institutions to take consequential action against the petitioners.

26. It is further submitted that, in consequence of the aforesaid proceedings and the impugned order dated 29.07.2025 passed by respondent no. 1, an F.I.R. dated 05.08.2025 was lodged against the petitioners, which was registered as Case Crime/F.I.R. No. 263 of 2025 at Police Station Kotwali Mau, under the provisions of the Bharatiya Nyaya Sanhita, as mentioned in the said F.I.R.

27. The submission of learned counsel for the petitioners, therefore, is that the appointments of the petitioners, which had earlier been subjected to a detailed departmental inquiry resulting in the report dated 28.11.2018 and the consequential State Government order dated 24.07.2019, and which had also been examined in the criminal investigation culminating in the final report dated 07.06.2020, could not have been reopened and declared fraudulent on the basis of an ex-parte exercise undertaken several years thereafter, without notice to the petitioners and without affording them any meaningful opportunity to establish the authenticity and validity of the documents relating to their appointments.

28. Learned counsel for the petitioners further submits that, although the inquiry directed to be conducted pursuant to the order dated 29.07.2025 has neither been concluded nor has any final decision been taken by the State Government with regard to the legality or otherwise of the appointments of the petitioners, the State Government, in the meantime, proceeded to pass the impugned order dated 12.12.2025. By the said order, the grant-in-aid being released to the concerned institutions for payment of salary to their teaching staff was stayed, and an explanation was also called for with regard to the manner in which the petitioners had been appointed.

29. It is submitted that, in response to the aforesaid order dated 12.12.2025, the respective Committees of Management submitted detailed replies explaining the procedure followed in making the appointments of the petitioners, including the circumstances in which the selections were conducted and the requisite approvals were obtained from the competent authorities. The said replies submitted by the respective Committees of Management have already been brought on record before this Court.

30. Learned counsel thus submits that, notwithstanding the fact that the inquiry initiated pursuant to the order dated 29.07.2025 remains pending and no final adjudication has yet been made by the competent authority, the consequential action of withholding the grant-in-aid, with the inevitable effect of discontinuing the payment of salary to the petitioners, has already been undertaken by the State Government.

31. Learned counsel for the petitioners further submits that, pursuant to the F.I.R. dated 05.08.2025, wherein allegations had been levelled against the petitioners that their appointments had been secured by practising fraud, a criminal investigation was undertaken by the competent Investigating Officer. Upon completion of the investigation and examination of the

allegations and material available on record, the Investigating Officer found the allegations to be false and unsubstantiated and, accordingly, submitted a final report dated 07.04.2026.

32. Learned counsel for the petitioners submits that the appointments of all the petitioners were made strictly in accordance with law and that each of them possesses the requisite educational and professional qualifications prescribed for appointment to the post of Assistant Teacher. It is submitted that the appointments were duly scrutinized and approved by the competent authorities, including the District Social Welfare Officer, Mau, as well as the Special Secretary/Under Secretary, Social Welfare Department, Government of Uttar Pradesh, Lucknow. Pursuant to the approval accorded by the competent authority of the State Government, the requisite grant was released and the petitioners were paid their salary.

33. Learned counsel further submits that there is, in fact, no separate statutory service framework specifically governing the appointment of Assistant Teachers in institutions administered or aided by the Social Welfare Department. The institutions in question, insofar as their recognition and academic administration are concerned, are governed by the Basic Education Department, whereas the financial assistance for payment of salary has been extended by the Social Welfare Department pursuant to various Government Orders issued from time to time. It is, therefore, submitted that the mere fact that the institutions receive financial assistance from the Social Welfare Department does not, by itself, render the appointments of teachers therein illegal or de hors the procedure prescribed under the applicable law.

34. Without prejudice to the aforesaid submission, learned counsel next submits that even if the contention of the respondents that appointments of Assistant Teachers in institutions receiving aid from the Social Welfare Department are governed by the Uttar Pradesh Recognized Basic Schools (Junior High Schools) (Recruitment and Conditions of Service of Teachers) Rules, 1978, or the Rules applicable to the institution, is accepted, the appointments of the petitioners would nevertheless withstand scrutiny on the touchstone of the said statutory requirements. This is for the reason that the appointments were made only after obtaining prior approval of the District Basic Education Officer, Mau, who was the competent authority concerned with the recognition and appointment process.

35. It is, therefore, contended that the respondents cannot, after having themselves scrutinized and approved the appointments at the relevant stages, and after the State Government had acted upon such approvals by releasing the requisite financial assistance and permitting payment of salary to the petitioners, subsequently characterize the appointments as fraudulent or wholly illegal without establishing any specific violation of the statutory procedure or demonstrating that the approvals themselves were obtained by fraud or misrepresentation.

36. Learned counsel for the petitioners further submits that an identical or substantially similar controversy had arisen earlier in respect of the appointments in question, pursuant to which the salary of the petitioners and other similarly situated teachers was withheld. The petitioners were compelled to approach this Court, whereupon this Court directed the respondents to release the salary of the petitioners, while leaving it open to the competent authorities to examine the legality of the appointments in accordance with law. The said liberty was accompanied by a specific direction permitting the authorities to conduct an appropriate inquiry into the matter.

37. Pursuant thereto, a three-member Inquiry Committee was constituted by the competent authority. The said Committee conducted a detailed inquiry, afforded opportunity to the concerned persons and examined the relevant records pertaining to the appointments. Upon completion of the inquiry, the Committee found that, except in respect of two persons who did not possess the requisite qualifications, the appointments of the remaining teachers, including the present petitioners, were valid. The report of the Inquiry Committee was duly submitted before the State Government and was acted upon accordingly. It is, therefore, submitted that there was no lawful justification for withholding the salary of the petitioners, particularly when their appointments had already been examined by a duly constituted Inquiry Committee and had not been found to suffer from any illegality.

38. Learned counsel for the petitioners further submits that, quite apart from the aforesaid circumstance, the very foundation of the impugned action is vitiated by violation of the principles of natural justice. The verification of the approvals granted by the then District Basic Education Officer, Mau, in respect of the appointments of the petitioners was undertaken entirely behind their back. No notice was issued to the petitioners, no opportunity of hearing was afforded to them and they were not associated with the verification or inquiry at any stage.

39. It is submitted that the impugned reports do not disclose any objective consideration of the material or any reasoned satisfaction regarding the response furnished by the then District Basic Education Officer, Mau, who himself had granted approval to the appointments of the petitioners at the relevant point of time. Instead, the authorities proceeded, in a wholly arbitrary and clandestine manner, to prepare and submit reports to the District Social Welfare Officer without confronting the petitioners with the material relied upon against them.

40. The arbitrariness of the impugned action is further demonstrated by the fact that the very authority whose approval is now sought to be questioned had itself acknowledged the issuance of the approval orders relating to the appointments of the petitioners. For instance, the issuance of the approval orders in respect of petitioner nos. 4 and 5 was duly certified by the then In-charge District Basic Education Officer, Birbal Ram, in response to a query raised by the Investigating Officer in connection with the criminal case arising out of the appointments in question.

41. The approval order dated 20.06.2011, the communication dated 25.01.2026 issued by the Investigating Officer, the reply furnished by the then In-charge District Basic Education Officer, Birbal Ram, and the report dated 12.03.2026 submitted by the Investigating Officer to the District Social Welfare Officer have already been brought on record. Learned counsel submits that these contemporaneous official records materially contradict the subsequent reports relied upon by the respondents and demonstrate that the approvals granted in respect of the petitioners were in fact issued by the competent authority.

42. It is, therefore, contended that the respondents could not have proceeded on the assumption that the approvals were non-existent or fabricated without first confronting the petitioners with the material relied upon and without examining the contemporaneous official records emanating from the very authority which had granted such approvals. The impugned reports and the consequential orders, having been founded upon an ex parte verification undertaken without notice or opportunity of

hearing and contrary to the contemporaneous official record, are liable to be set aside on this ground alone.

43. Similarly, learned counsel for the petitioners submits that the reply furnished by the District Basic Education Officer, Mau, in response to the RTI application submitted by petitioner no. 11 further renders the impugned report wholly questionable. Along with the said reply, a copy of the relevant dispatch register was furnished, which specifically records that the approval granted by the office of the District Basic Education Officer, Mau, in respect of the appointment of petitioner no. 11 was duly entered on 07.04.2016 at Serial No. 60.

44. It is thus submitted that the contemporaneous official record itself contains a specific entry evidencing the approval of the appointment of petitioner no. 11. The existence of such official documentary material, furnished by the very office whose record was sought to be verified, was required to be duly considered before any adverse conclusion could be drawn against the petitioners. The failure to take the aforesaid material into account, coupled with the absence of any notice or opportunity to the petitioners, renders the impugned report prima facie arbitrary, unsustainable and contrary to the record itself.

45. Learned counsel for the petitioners further submits that the impugned orders dated 18.07.2025 are ex facie stigmatic in nature, inasmuch as they strike at the very foundation of the appointments of the petitioners by recording, in substance, that the requisite approvals for their appointments do not exist. Such a finding carries serious adverse civil consequences and casts a stigma upon the petitioners by suggesting that their appointments were without lawful approval.

46. It is submitted that, once the competent authority proceeded to record such an adverse finding concerning the very validity of the appointments of the petitioners and, on that basis, directed the Managers of the respective institutions to take action against them, the petitioners could not lawfully have been condemned unheard. At the very least, they were entitled to notice of the material proposed to be relied upon, an opportunity to explain the existence and genuineness of the approvals, and a reasonable opportunity of hearing before any such stigmatic finding or consequential direction was made.

47. The impugned orders, having been passed without affording any such opportunity and without associating the petitioners with the process of verification, are therefore contended to be violative of the principles of natural justice and unsustainable in law.

48. Learned counsel for the petitioners further submits that the appointments of the petitioners were subjected to scrutiny and verification at multiple levels of the administrative hierarchy, which is evident from the orders whereby the State Government itself granted financial approval to their appointments. For instance, by order dated 07.04.2017, financial approval was granted in respect of petitioner nos. 1, 2 and 3. The said order categorically records that the financial approval was being accorded on the basis of the communication received from the office of the Director, Social Welfare, Uttar Pradesh, Lucknow, which, in turn, had referred to the approval orders granted by the District Basic Education Officer, Mau.

49. The aforesaid recital in the State Government's order is of considerable significance. It demonstrates that the approval granted by the District Basic Education Officer, Mau, was not merely an isolated document claimed by the petitioners, but formed part of the official record transmitted through successive levels of the administrative hierarchy. The approval orders were available in the office of the District Basic Education Officer, Mau, the same were thereafter transmitted to the District Social Welfare Officer, Mau, who forwarded the relevant records to the Director, Social Welfare, Uttar Pradesh, Lucknow. The Director, after considering the material so received, forwarded the same to the State Government for grant of financial approval, whereupon the State Government, after due consideration, accorded financial approval to the appointments of the petitioners.

50. It is further submitted that copies of the orders granting such financial approval were forwarded to the District Basic Education Officer, Mau, the District Social Welfare Officer, Mau, as well as the Managers of the respective institutions. Thus, the existence of the approval granted by the District Basic Education Officer, Mau, stood reflected in the records maintained not merely by the office of the petitioners or the respective institutions, but by different government authorities through which the appointment records had passed in the ordinary course of official business.

51. Learned counsel, therefore, submits that the subsequent conclusion that the approval orders did not exist is directly at variance with the contemporaneous official record and with the very basis upon which the State Government itself had earlier granted financial approval. Such a conclusion, particularly when arrived at without confronting the petitioners with the material relied upon or affording them an opportunity to explain the relevant records, cannot be sustained merely on the basis of an ex parte verification conducted several years after the appointments.

52. Learned counsel for the petitioners further submits that, in the counter affidavit, the respondents have taken the specific stand that the Uttar Pradesh Recognized Basic Schools (Recruitment and Conditions of Service of Teachers) Rules, 1975, as amended by the Rules, 1977 are applicable to the appointments made in the institutions administered by the District Social Welfare Department and, consequently, prior approval of the District Basic Education Officer is required before issuance of an appointment letter.

53. It is, however, submitted that the respondents have themselves failed to disclose any definite or consistently followed mechanism governing the manner in which such prior approval is to be obtained or recorded in respect of appointments made in the institutions concerned. On the contrary, the material placed on record demonstrates that, in several instances, appointments of teachers were directly accorded financial approval by the State Government without there being any prior approval of the District Basic Education Officer. This position is, according to learned counsel, evident from the letter dated 25.06.2018 addressed by the District Social Welfare Officer, Mau, to the Director, Social Welfare, Uttar Pradesh, Lucknow, read with the financial approval orders issued by the State Government.

54. It is thus contended that the respondents cannot selectively insist upon a particular procedure for the petitioners while failing to explain the procedure actually followed by the department in respect of similarly situated appointments. If the respondents' own stand is that prior approval of the District Basic Education Officer is an indispensable statutory requirement, it was incumbent upon them to disclose the precise source of such requirement, the prescribed procedure for obtaining and maintaining such approval, and the manner in which the same was ordinarily verified before the State Government proceeded to grant financial approval.

55. Learned counsel for the petitioners further submits that, once the respondents have sought to dispute the existence or genuineness of the approval orders allegedly issued by the then District Basic Education Officer, Mau, the appropriate course would have been to ascertain the factual position from the very officers who had dealt with the records at the relevant point of time. The then District Basic Education Officer, Mau, the then District Social Welfare Officer, Mau, the then Director, Social Welfare, Uttar Pradesh, Lucknow, and the then Special Secretary, Government of Uttar Pradesh, who dealt with the matter, could have been called upon to furnish their respective affidavits or otherwise explain the official record and the circumstances in which the financial approvals came to be issued.

56. Such an exercise would have enabled the competent authority to ascertain whether the approval orders referred to in the financial approval proceedings had, in fact, been issued by the then District Basic Education Officer, Mau, whether such orders formed part of the official records of the concerned departments, and on what basis the subsequent authorities proceeded to grant financial approval to the appointments of the petitioners.

57. It is submitted that no such exercise has been undertaken by the respondents. Instead, the adverse conclusion regarding the non-existence of the approval orders has been drawn on the basis of reports obtained at the district level, without confronting the petitioners with the relevant material and without examining the officers or contemporaneous official records which constituted the basis of the earlier financial approvals granted by the State Government.

58. According to learned counsel, this omission assumes particular significance because the State Government itself had earlier granted financial approval after the appointment records, including the approval of the District Basic Education Officer, had passed through the prescribed administrative hierarchy. The subsequent assertion that such approval did not exist, therefore, required a cogent and reasoned determination based upon the original official records and the statements of the officers responsible for maintaining and processing those records, rather than an ex parte inference drawn from a subsequent verification.

59. Learned counsel for the petitioners further submits that the appointment of petitioner no. 13 was approved by the District Basic Education Officer, Mau, by order dated 07.10.2016, whereafter the State Government, by order dated 30.06.2017, accorded financial approval to his appointment. Petitioner no. 13 thereafter sought information regarding the issuance and dispatch of the approval order. In response, the Block Education Officer, Kopaganj, by letter dated 04.02.2026, furnished the requisite information and enclosed therewith an extract of the relevant dispatch register containing the reference to Letter No. 3493 and the name of the institution in which petitioner no. 13 was appointed.

60. It is further submitted that the aforesaid documentary position was independently verified during the criminal investigation. The Investigating Officer of Police Station Kotwali, District Mau, informed the District Social Welfare Officer, Mau, by letter dated 28.02.2026, that Letter No. 3493 was duly entered in the dispatch register and was found to be genuine. Thus, the official record relied upon by the petitioners was not merely produced by them, but was also verified during the course of the investigation.

61. Learned counsel further submits that, with regard to petitioner no. 12, the then District Basic Education Officer, Mau, furnished information to the Investigating Officer, Police Station Kotwali, Mau, by letter dated 11.03.2026, confirming the approval order dated 25.07.2016 relating to the appointment of the said petitioner. Likewise, in respect of petitioner no. 10, the then District Basic Education Officer, Mau, by the same letter dated 11.03.2026, confirmed the approval order dated 24.02.2016 relating to his appointment and certified that the said order had been issued under his signature.

62. It is, therefore, submitted that the subsequent assertion of the respondents that the approval orders relating to the appointments of the petitioners did not exist is contradicted by contemporaneous and subsequently verified official records. The existence and authenticity of the relevant approval orders have, in different instances, been supported by entries in the official dispatch registers as well as by the statements and communications of the concerned authorities who had either issued or maintained the relevant records.

63. Learned counsel lastly submits that, pursuant to the F.I.R. registered at the instance of the respondents as F.I.R. No. 263 of 2025 dated 05.08.2025, a detailed criminal investigation was undertaken into the very same allegations concerning the alleged fraudulent procurement of appointment by the petitioners. Upon completion of the investigation, the Investigating Officer submitted a final report dated 07.04.2026, recording that the allegations levelled against the petitioners could not be established.

64. It is thus contended that the very allegations which constitute the foundation of the impugned administrative action have been subjected to a subsequent criminal investigation, in which the Investigating Officer, upon examination of the relevant material, found no substance in the allegations against the petitioners. The said circumstance, according to learned counsel, is a further material factor which ought to have been considered by the authorities before continuing to withhold the salary of the petitioners or proceeding against their appointments on the allegation of fraud.

65. Learned counsel further submits that the Government Order dated 01.03.2006, issued by the Principal Secretary, Department of Social Welfare, Government of Uttar Pradesh, specifically provides that, in future, all decisions concerning matters relating to the service of teachers appointed in basic schools receiving grant-in-aid from the Social Welfare Department of the State Government shall be taken strictly in accordance with the provisions contained in the Uttar Pradesh Recognised Basic Schools (Recruitment and Conditions of Service of Teachers and Other Conditions) Rules, 1975, as amended by the Rules of 1977.

66. Learned counsel, therefore, submits that the service conditions of the petitioners are regulated by the aforesaid statutory framework and that any action concerning their appointments or continuance in service is required to conform strictly to the procedure prescribed therein.

67. Rule 9 of the Uttar Pradesh Recognised Basic Schools (Recruitment and Conditions of Service of Teachers and Other Conditions) Rules, 1975, as amended by the Rules of 1977, provides as follows:

◆ Rule - 9. Appointment of teachers.

No person shall be appointed as teacher or other employee in any recognised school unless he possesses, such qualification as

are specified in this behalf by the Board and for whose appointment the previous approval of the Basic Shiksha Adhikari has been obtained in writing. In case of vacancy the applications for appointment shall be invited by the concerned management through advertisement in at least two newspapers (one of them will be daily newspaper), giving at least thirty days time for submitting applications. The date of Interview may be given in the advertisement or the candidates be informed of the date fixed for interview by registered post, giving them at least 15 days time from the date of issue of the letter. The management shall not select any untrained teacher and if the selected candidate is trained one, he will be approved by the Basic Shiksha Adhikari. ♦

68. The submissions of learned counsel for the petitioners, in substance, may be summarised as follows:

A. The appointments of the petitioners were not made clandestinely or de hors the prescribed procedure. Each appointment was preceded by permission granted by the District Basic Education Officer, Mau; publication of the requisite advertisement in the newspapers; constitution of the Selection Committee; conduct of the selection proceedings; preparation of the minutes thereof; and approval of the appointments by the District Basic Education Officer, Mau.

B. The appointments of the petitioners were thereafter subjected to scrutiny at the level of the Special Secretary, Government of Uttar Pradesh, before financial sanction was accorded. Pursuant to such sanction, the petitioners were continuously paid their salaries in accordance with the applicable financial arrangement.

C. At no point of time have the services of the petitioners been validly suspended or terminated. They continue to hold their respective posts and to discharge their duties.

D. The eligibility and educational qualifications of the petitioners have never been questioned by the competent authorities. There is, therefore, no surviving dispute with regard to their basic eligibility for appointment.

E. The legality and genuineness of the appointments had already been subjected to an inquiry, which culminated in the inquiry report dated 28.11.2018. The said inquiry did not disclose any infirmity in the appointments of the petitioners. The report was duly considered and accepted by the State Government, and consequential action was also taken thereon. The respondents cannot, therefore, reopen the very same issue indefinitely in the absence of any fresh and substantive material warranting such reconsideration.

F. The petitioners have twice been subjected to criminal investigation in respect of substantially the same allegations concerning alleged fraud or irregularity in obtaining their appointments. On both occasions, the allegations were investigated by the competent investigating agency, final reports were submitted, and the said final reports were accepted by the competent authority. The repeated invocation of the same allegations, despite their having already undergone investigation and having culminated in closure, is therefore sought to be assailed as wholly unwarranted.

G. The salary of the petitioners has been withheld since May 2025 ostensibly on the ground that an inquiry is pending. Learned counsel submits that mere pendency of an inquiry, in the absence of statutory authority or a specific order passed in accordance with law, does not furnish an independent legal foundation for withholding salary otherwise payable to an employee who continues to discharge his duties. The continued withholding of salary is, therefore, contended to be arbitrary and without authority of law.

H. Significantly, the then District Basic Education Officer, Mau, has himself acknowledged before the Investigating Officer, during investigation pursuant to the FIR concerning the very same allegations, that the approval orders in question had been issued. Such contemporaneous acknowledgment by the competent departmental authority, according to learned counsel, materially corroborates the petitioners' case regarding the existence and issuance of the approval orders and belies the subsequent assertion that such approvals were non-existent or fabricated.

69. Counsel for the petitioners submit that the judgment of this Court in the case of Committee of Management, Smt. Durgaji Purva Madhavik, Balika Jamin and another v. State of U.P. and 4 others, Writ-A No. 5540 of 2020, decided on 14.10.2020, makes it abundantly clear that where an appointment has been made pursuant to the procedure prescribed by law and the competent authorities have accorded the requisite approval, the same cannot subsequently be assailed or unsettled merely on the basis of a subsequent inquiry, particularly when the competent authority had itself scrutinised the appointment and permitted the incumbent to continue in service.

70. Learned counsel, therefore, submits that the appointments of the petitioners, having passed through the prescribed statutory and administrative scrutiny, having received approval from the competent departmental authority and thereafter financial sanction from the State Government, and having remained operative for several years with the petitioners continuously receiving salary, could not have been placed under a perpetual cloud of suspicion on the basis of the very same allegations which had already been examined in an earlier inquiry and in criminal investigations. In the absence of any order lawfully cancelling the appointments or withdrawing the approvals in accordance with the procedure prescribed by law, the respondents could not, merely by withholding salary under the pretext of a pending inquiry, indirectly achieve what they could not lawfully accomplish directly.

71. The submission, therefore, is that the subsequent action of the respondents must be tested against the settled principle that an administrative authority, having itself scrutinised and approved an appointment and having permitted the employee to continue thereunder, cannot arbitrarily disregard its own earlier determination without first establishing, in accordance with law, the existence of fraud, misrepresentation or other legally cognisable infirmity warranting recall of such approval.

72. Reliance has also been placed upon the decision of the Supreme Court in Subodh Kumar Prasad v. State of Bihar and others, (2001) 10 SCC 282, in support of the proposition that an appointment which has been acted upon by the competent authorities cannot be lightly unsettled subsequently, particularly where the incumbent has continued in service on the strength of the orders of the authorities and there is no finding, duly recorded in accordance with law, establishing fraud or misrepresentation attributable to the incumbent.

73. The principle assumes particular significance in the present case, where the appointments of the petitioners were subjected to departmental scrutiny, approval was granted by the competent authority, financial sanction was subsequently

accorded by the State Government and the petitioners were permitted to continue in service and were paid salary for a considerable period. The respondents, therefore, cannot seek to nullify the legal consequences flowing from their own orders merely by reopening the same issue without first establishing a legally sustainable ground for recall or cancellation of the earlier approvals.

74. Learned counsel has further placed reliance upon the judgment rendered by the Division Bench in Special Appeal No. 25 of 2021 (The State Of U.P. Through Special Secretary (Basic Education) And 3 Others v. The Committee Of Management Sri Durga Ji Purva Madhyamik Balika Jamin And Another), decided on 27.08.2021, to contend that once an appointment has been subjected to scrutiny by the competent authorities and the incumbent has been permitted to continue in service pursuant to the approval so granted, the administration cannot, after an inordinate lapse of time, unsettle such appointment except upon a cogent and legally sustainable foundation.

75. It is submitted that the principle assumes greater significance in the present case, since the appointments of the petitioners were not merely acted upon by the appointing authorities, but were subsequently scrutinised at the government level, followed by financial sanction and continuous payment of salary. The petitioners have, thereafter, continued to discharge their duties for several years. In such circumstances, a subsequent attempt to reopen the legality of their appointments, particularly on allegations which had already been subjected to departmental and criminal scrutiny, cannot be sustained merely by describing the matter as an inquiry which remains pending.

76. The petitioners accordingly contend that, unless the earlier orders of approval and financial sanction are first lawfully rescinded or cancelled on the basis of a finding of fraud, misrepresentation or other established illegality attributable to the petitioners, the respondents cannot, by an administrative device of withholding salary, effectively deprive the petitioners of the consequences flowing from those subsisting orders.

77. Learned counsel for the petitioners, in summation of his submissions, contends that, in view of the facts and circumstances brought on record and the legal position governing the controversy, the impugned orders cannot be sustained and are liable to be set aside. It is, accordingly, submitted that the writ petition deserves to be allowed and the respondents be directed to release the salary of the petitioners withheld during the relevant period.

78. Learned counsel appearing for respondent nos. 1 to 3, on the other hand, submits that the petitioners' claims to have been appointed as Assistant teachers in Basic Schools run by a private management, recognised by the Uttar Pradesh Board of Basic Education and receiving financial aid from the Social Welfare Department of the Government of Uttar Pradesh towards payment of salary to its teachers.

79. It is submitted that the eligibility, mode and procedure of selection and appointment, as well as the conditions of service of teachers employed in recognised basic schools receiving such financial aid from the Social Welfare Department, are governed by the provisions of the Uttar Pradesh Basic Education Act, 1972, read with the Uttar Pradesh Recognised Basic Schools (Recruitment and Conditions of Service of Teachers and Other Conditions) Rules, 1975, as amended by the Rules of 1977. Learned counsel submits that the aforesaid statutory framework governs the appointments in question and is borne out from the letter dated 18.07.2003 issued by the Secretary, Uttar Pradesh Board of Basic Education, Prayagraj.

80. The financial approval in respect of the appointments of the petitioners was accorded by the Social Welfare Department, Government of Uttar Pradesh, by orders dated 07.04.2017, 14.06.2017, 27.04.2017, 20.12.2016, 03.04.2017, 27.12.2016, 04.12.2017, 30.06.2017, 03.01.2017 and 10.07.2017, subject to the conditions stipulated therein.

(i) The approval of the appointment and release of salary in respect thereof would take effect only from the date of approval accorded by the Basic Shiksha Adhikari or from the date of joining of the concerned appointee, whichever is later.

(ii) In the event any fact relating to the eligibility of the appointee or any document produced by him/her was found to have been concealed or suppressed, the approval so granted would automatically stand cancelled, and the amount paid pursuant thereto would be liable to be recovered from the movable or immovable property of the concerned appointee as well as from the management.

81. Learned counsel appearing for respondent Nos. 1, 2 and 3 submits that the appointments of the petitioners were made in flagrant disregard of the procedure prescribed under the Uttar Pradesh Recognized Basic Schools (Recruitment and Conditions of Service of Teachers and Other Conditions) Rules, 1975, as amended in 1977, in collusion with the respective managements of the institutions concerned. It is submitted that, upon the aforesaid irregularity having come to the notice of the Director, Social Welfare, Government of Uttar Pradesh, Lucknow, a three-member inquiry committee, headed by Sri Sunil Kumar Bisen, Joint Director, Social Welfare, Varanasi Division, Varanasi, was constituted by order dated 10.08.2018 to inquire into the alleged irregularities in the appointments of teachers serving in basic schools receiving grant-in-aid from the Social Welfare Department in District Mau.

82. It is further submitted that the said inquiry committee submitted its report dated 28.11.2018 to the Director, Social Welfare, Government of Uttar Pradesh, Lucknow. According to the findings recorded in the said inquiry report, no record evidencing approval of the appointments of the petitioners by the District Basic Education Officer, Mau, was available. The committee further observed that, till the date of the inquiry, no specific rules had been framed or made applicable by the Social Welfare Department governing the appointment and service conditions of teachers employed in basic schools receiving grant-in-aid from the said Department. In the circumstances, it is contended that the requirement of obtaining prior approval of the District Basic Education Officer cannot be regarded as mandatory in the case of the petitioners and, at the highest, could be treated as directory or optional.

83. It is further submitted that, in view of the facts brought on record by the three-member inquiry committee, which were found to be contrary to the letter dated 18.07.2003 issued by the Secretary, U.P. Board of Basic Education, Prayagraj, the Government Order dated 01.03.2006, as well as the provisions of the Rules of 1975, as amended in 1977, a show-cause notice dated 09.09.2025 was issued by the Director, Social Welfare, Uttar Pradesh, Lucknow, to Sri Sunil Kumar Bisen, who was then posted as Joint Director, Social Welfare, Varanasi Division, Varanasi, and is presently posted as Joint Director, Social Welfare, at the headquarters, Uttar Pradesh, and to Sri R.K. Singh, who was then posted as District Social Welfare

Officer, Chandauli, and is presently posted as Deputy Director, Social Welfare, Vindhyachal Division, Vindhyachal. By the said notice, they were called upon to submit their explanation as to why a proposal should not be forwarded to the State Government for initiation of departmental proceedings against them in respect of the aforesaid conduct.

84. It is further submitted that, by letter dated 30.05.2025 issued by the Directorate of Social Welfare, Uttar Pradesh, Lucknow, and the Government Order dated 12.06.2025 issued by the Social Welfare Department, the District Magistrate, Mau, was directed to cause an inquiry into the appointments of newly appointed Assistant Teachers in the basic schools receiving grant-in-aid from the Social Welfare Department and being managed by private managements in District Mau, from the year 2014 onwards, and to submit a report containing, inter alia, the names of the institutions, the dates of appointment, the particulars of approval accorded to such appointments and the documentary evidence in support thereof.

85. Pursuant thereto, the District Magistrate, Mau, caused an inquiry to be conducted through the District Basic Education Officer, Mau, and the District Social Welfare Officer, Mau. Upon receipt of their respective reports, the District Magistrate forwarded, by his report dated 25.06.2025, the inquiry report along with the reports submitted by the District Basic Education Officer and the District Social Welfare Officer to the Director, Social Welfare, Uttar Pradesh, Lucknow. It is submitted that, in the aforesaid inquiry, it was recorded that no approval of the appointments of the petitioners had been accorded by the District Basic Education Officer, Mau.

86. Thereafter, by order dated 18.07.2025, the District Social Welfare Officer, Mau, directed the Managers of the institutions concerned to take appropriate action against the petitioners on the ground that no approval of their appointments had been accorded by the District Basic Education Officer, Mau. The said order further directed that the concerned petitioners be duly informed of the action so contemplated. It is, however, submitted that, despite the aforesaid direction, no action has, till date, been taken by the respective managements against the petitioners.

87. Learned counsel for the respondents further submits that, pursuant to the irregularities noticed in the appointments of Assistant Teachers in the basic schools receiving grant-in-aid from the Social Welfare Department, the Additional Chief Secretary, Social Welfare Department, Government of Uttar Pradesh, issued an order dated 29.07.2025 to the District Magistrate, Mau, as well as to all the District Magistrates in the State, directing that appropriate action be taken, including lodging of first information reports, initiation of recovery proceedings and departmental proceedings against the Assistant Teachers, including the petitioners, the Managers of the institutions concerned and other officers found responsible for the alleged illegal appointments.

88. It is submitted that, in pursuance of the aforesaid direction, an FIR dated 05.08.2025 was lodged at Police Station Kotwali, District Mau, being Case Crime No. 263 of 2025, against the concerned teachers, the Manager and other officers alleged to be responsible for the appointments in question.

89. It is further submitted that, by order dated 12.12.2025 passed by the Joint Secretary, Social Welfare Department, Government of Uttar Pradesh, Lucknow, the recurring grant and financial approval relating to the institutions concerned were kept in abeyance. In connection therewith, a show-cause notice was issued to the Managers of the institutions requiring them to explain as to why the grant being extended to the concerned schools should not be cancelled.

90. Learned counsel further submits that the issue relating to the alleged illegal appointment of Assistant Teachers in primary schools recognised by the Basic Education Department and receiving grant-in-aid from the Social Welfare Department in various districts of the State was also raised before the Legislative Assembly. It is submitted that, in view of the issue having assumed wider dimensions, the Additional Chief Secretary, Social Welfare Department, Government of Uttar Pradesh, by order dated 29.07.2025, directed all the District Magistrates in the State to cause an inquiry into the appointments of teachers made from the year 2014 onwards in such primary schools, by constituting a three-member committee for the purpose.

91. Learned counsel for the respondents further submits that the Secretary, Social Welfare Department, Government of Uttar Pradesh, issued a further direction by letter dated 12.05.2026 to the District Magistrates of Mau, Azamgarh and Ghazipur to submit an inquiry report in accordance with the checklist prescribed therein. Pursuant to the aforesaid direction, a three-member inquiry committee was constituted under the chairmanship of the Chief Development Officer, Mau. The committee thereafter issued notices, vide letters dated 22.01.2026 and 03.07.2026, to 18 Committees of Management, including the managements of the institutions in which the petitioners are employed, requiring them to furnish detailed information and produce the relevant records pertaining to the appointments of the petitioners and other teachers in their respective institutions. It is submitted that, despite such notices, the requisite records were not produced before the inquiry committee, except by two institutions.

92. It is further submitted that, thereafter, the Joint Secretary, Social Welfare Department, Government of Uttar Pradesh, Lucknow, issued notice dated 12.12.2025 directing that the recurring grant and financial approval in respect of the institutions concerned be kept in abeyance forthwith. A show-cause notice was accordingly issued to the concerned managements calling upon them to explain as to why the grant being extended to the institutions should not be cancelled. Although the managements submitted their written explanations before the State Government, it is submitted that they failed to produce any cogent documentary material or other evidence establishing compliance with the prescribed procedure for appointment of the petitioners to the posts of Assistant Teachers in the respective institutions.

93. Learned counsel further submits that a reminder dated 08.08.2026 was issued by the Special Secretary, Social Welfare Department, Government of Uttar Pradesh, to all the Committees of Management, reiterating the requirement of furnishing the requisite records and information. It is also submitted that, pursuant to the order dated 27.07.2026, the Special Secretary, Social Welfare Department, conducted a spot inspection of Dr. Ambedkar Shiksha Niketan Prathmik Pathshala, Khilla Ratauli, District Mau, in which petitioner Nos. 1, 2 and 3 are employed. Following the said inspection, a report dated 07.08.2026 was submitted before the State Government recording alleged irregularities in the process of selection and appointment of teachers in the said institution.

94. Counsel for the respondents further submits that the impugned order dated 29.07.2025 has been passed strictly in accordance with law. It is a settled proposition that an order or benefit procured by practising fraud or by deliberate

concealment of material facts cannot confer any lawful right upon the person who has obtained the same, and such an order is liable to be treated as non est in the eyes of law.

95. It is contended that, upon consideration of the earlier inquiry report dated 31.07.2018, the inquiry report dated 28.11.2018 and the subsequent inquiry conducted pursuant thereto, culminating in the report dated 25.06.2025, it was found that the appointments of the petitioners had not been made in accordance with the procedure prescribed under the U.P. Recognized Basic Schools (Recruitment and Conditions of Service of Teachers and Other Conditions) Rules, 1975, as amended by the Rules of 1977. According to the respondents, the prescribed statutory procedure was not followed at the stage of recruitment and appointment and, consequently, the appointments of the petitioners are void ab initio.

96. It is, therefore, submitted that no enforceable right to receive salary can arise from appointments which themselves are alleged to be void from their inception. The respondents further contend that the financial approval accorded by the State Government for payment of salary to the petitioners was procured by placing incorrect facts before the competent authorities and by withholding or suppressing material particulars concerning the manner in which their appointments had been made. It is thus urged that the requisite financial approval was obtained by practising fraud upon the concerned authorities, including the Director, Social Welfare, Government of Uttar Pradesh, and that such approval, having allegedly been founded upon misrepresentation and concealment of material facts, cannot operate to validate appointments which were otherwise contrary to the statutory rules.

97. It is further submitted by learned counsel for the respondents that the writ petition is conspicuously bereft of any specific pleading or material disclosing that the appointments of the petitioners were made in accordance with the procedure mandatorily prescribed under Rule 9 of the Rules of 1975, as amended in 1977. There is no averment demonstrating that prior approval of the competent Basic Education Officer was obtained for publication of the vacancies in two widely circulated newspapers, nor is there any pleading with regard to the constitution and conduct of the selection process, including the interview, or the subsequent approval of the appointments by the District Basic Education Officer.

98. It is further submitted that the petitioners have not placed on record any document evidencing their requisite educational qualifications, the advertisements inviting applications, the proceedings of the selection committee, the interview or selection proceedings, or the orders whereby their respective appointments to the post of Assistant Teacher were approved by the competent authority. In the absence of such foundational pleadings and contemporaneous documentary material, the mere assertion that the appointments were duly made cannot, according to the respondents, establish compliance with the mandatory procedure prescribed under the Rules of 1975, as amended in 1977.

99. Learned counsel, therefore, submits that the petitioners have failed to discharge the initial burden of demonstrating that their appointments were made in accordance with the statutory requirements and that, in the absence of proof of compliance with the prescribed procedure, no enforceable right to claim salary from the State Exchequer can be founded upon such appointments.

100. In view of the aforesaid facts and circumstances, learned counsel for the respondents submits that the appointments of the petitioners were obtained by practising fraud and by suppressing material facts from the competent authorities. Consequently, the financial approval purportedly granted on the basis of such misrepresentation cannot confer any lawful entitlement upon the petitioners to claim salary from the State Exchequer. It is, therefore, submitted that the petitioners are not entitled to receive salary on the strength of appointments which, according to the respondents, are vitiated by fraud and are void ab initio.

101. Learned counsel for the respondents further submits that, pursuant to the issue raised before the Legislative Assembly regarding the alleged illegal appointments of Assistant Teachers made since the year 2014 in District Mau, Azamgarh as well as in Ghazipur and certain other districts of the State of Uttar Pradesh, in primary schools recognised by the Basic Education Department and receiving grant-in-aid from the Social Welfare Department, an inquiry is conducted by a five-member committee headed by the Chief Development Officer, Mau. It is submitted that, upon completion of the inquiry and receipt of the report of the said committee, the has been placed by the State Government before the Legislative Assembly.

102. It is further submitted that respondent Nos. 4, 4-A, 4-B, 4-C, 4-D, 4-E and 4-F, being the respective Committees of Management, have filed separate counter-affidavits along with the documents relating to the selection, appointment and approval of the petitioners. A perusal of the documents annexed to the said counter-affidavits, according to learned counsel, demonstrates that the Managers of the respective institutions proceeded to publish advertisements for filling up the posts of Assistant Teachers without obtaining the requisite prior permission of the competent authority, namely, the District Basic Education Officer of the concerned district.

103. Learned counsel further submits that the advertisements were published only in local newspapers, instead of being published in at least two newspapers, one of which was required to be a daily newspaper, and further that the prescribed period of at least thirty days for submission of applications was not afforded. Such procedure, it is contended, was contrary to the mandatory requirements of Rule 9 of the Rules of 1975, as amended in 1977.

104. It is, therefore, submitted that the selection process culminating in the appointments of the petitioners was not conducted in conformity with the procedure prescribed under the applicable statutory rules. Consequently, the appointments, having been made in derogation of the mandatory requirements governing recruitment, cannot be treated as valid appointments in accordance with law.

105. Learned counsel for the respondents further submits that the counter-affidavits have been filed by the respective Committees of Management of the concerned institutions. However, none of the said affidavits contains any specific averment demonstrating that the appointments of the petitioners were made after following the procedure mandatorily prescribed under Rule 9 of the Rules of 1975, as amended in 1977.

106. It is submitted that there is no pleading whatsoever to establish that the vacancies were duly advertised in widely circulated newspapers in the manner prescribed by the Rules, followed by a lawful process of selection and interview. Equally, there is no specific averment or material to demonstrate that the appointments of the petitioners were made only after

obtaining the requisite approval of the District Basic Education Officer, being the competent authority under the applicable statutory framework.

107. Learned counsel, therefore, submits that in the absence of foundational pleadings and documentary material establishing compliance with the mandatory recruitment procedure, the petitioners cannot, merely on the strength of their alleged appointments or subsequent payment of salary, assert a legally enforceable status as duly appointed Assistant Teachers of the respective institutions. Consequently, no enforceable right to receive salary from the State Exchequer can be claimed by them. It is, accordingly, submitted that the writ petition, being devoid of any legally sustainable foundation, is liable to be dismissed.

108. Relying upon the judgment of the Supreme Court in the case of *Amrit Yadav v. State of Jharkhand & Others*, Civil Appeal Nos. 13950-13951 of 2024, learned counsel for the respondents submits that where appointment to a post is regulated by mandatory statutory recruitment requirements, an appointment made in disregard of such requirements cannot, merely by reason of the appointment having been made or subsequently acted upon, confer an indefeasible right upon the appointee to continue in service or to claim consequential service benefits. The legality of an appointment is required to be tested with reference to the governing statutory rules and the recruitment procedure prescribed thereunder.

109. It is, therefore, submitted that where the prescribed statutory procedure has not been followed at the stage of recruitment and appointment, subsequent continuance in service or payment of salary cannot, by itself, cure the foundational illegality in the appointment or confer upon the appointee a right contrary to the governing statutory framework.

110. Learned counsel for the respondents, placing reliance upon the judgment of the Hon'ble Supreme Court in *Mandeep Singh and Others v. State of Punjab and Others*, reported in 2025 SCC OnLine SC 1420, submits that where recruitment to a post is regulated by statutory rules prescribing a particular mode and procedure of selection, the recruiting authority is bound to adhere to the said statutory framework. The procedure prescribed by law cannot be departed from at the convenience of the appointing authority, and any deviation therefrom must satisfy the constitutional requirement of fairness, transparency and non-arbitrariness under Article 14 of the Constitution.

111. It is submitted that, in the present case, Rule 9 of the Rules of 1975, as amended in 1977, prescribes the manner in which vacancies are required to be advertised and the manner in which the selection and appointment are to be undertaken, including the requirement of obtaining the requisite approval of the competent authority. Therefore, the validity of the appointments of the petitioners has necessarily to be examined with reference to the procedure mandatorily prescribed under the aforesaid Rules. If the prescribed procedure was not followed, the mere issuance of appointment orders or subsequent payment of salary cannot, by itself, cure the foundational defect in the recruitment process.

112. Learned counsel for the respondents further places reliance upon the judgment of the Division Bench of this Court in *Hari Lal and Others v. Director, Samaj Kalyan, U.P. and Others*, reported in 2002 (2) UPLBEC 1407, wherein this Court considered the applicability of Rule 9 of the U.P. Recognised Basic Schools (Recruitment and Conditions of Service of Teachers and Other Conditions) Rules, 1975. The Division Bench held that the appointment of a teacher in a recognised basic school is required to be made in conformity with the procedure prescribed under Rule 9, including the requisite qualification, previous approval of the Basic Shiksha Adhikari and the prescribed mode of advertisement and selection.

113. It is submitted that an appointment made otherwise than in accordance with the mandatory procedure prescribed under Rule 9 does not confer upon the appointee the status of a legally appointed teacher and, consequently, no enforceable right to claim salary can arise merely on the basis of such appointment. The legality of the appointment must, therefore, be determined with reference to compliance with the statutory requirements governing recruitment.

114. Applying the aforesaid principle to the facts of the present case, learned counsel submits that the petitioners have neither pleaded nor placed on record cogent material demonstrating compliance with the requirements of Rule 9, particularly with regard to the prescribed advertisement, selection process and approval of the competent Basic Education Officer. Consequently, the petitioners cannot claim a legally enforceable right to hold the post of Assistant Teacher or to receive salary from the State exchequer.

115. Learned counsel for the respondents submits that it is a settled principle of law that fraud vitiates every solemn act and that no advantage can be claimed on the basis of an order or appointment obtained by practising fraud or by suppressing material facts. Consequently, where the very foundation of an appointment is found to be vitiated by fraud or material misrepresentation, the appointee cannot claim a legally enforceable right to receive salary on the strength of such appointment.

116. Learned counsel further submits that the well-known principle that witnesses may lie, but documents do not assumes significance in the facts of the present case. The legality of the appointments is required to be examined primarily with reference to the contemporaneous documentary record and the statutory procedure governing recruitment.

117. When the aforesaid principle is applied to the facts of the present case, the documents brought on record, according to learned counsel, do not establish that the appointments of the petitioners were made in conformity with the procedure prescribed under Rule 9 of the Rules of 1975, as amended in 1977. In particular, the record does not demonstrate compliance with the prescribed requirements relating to prior permission for advertisement, publication of the vacancies in the manner stipulated under the Rules, the prescribed selection process and approval of the appointments by the competent authority.

118. It is, therefore, submitted that the subsequent issuance of appointment orders or payment of salary cannot, in the absence of proof of compliance with the mandatory statutory procedure, by itself validate the appointments or create an enforceable right in favour of the petitioners to claim salary from the State exchequer.

119. Learned counsel appearing for respondent Nos. 1, 2 and 3 further submits that the petitioners procured their appointments by practising fraud and making material misrepresentations before the competent authorities. An appointment alleged to have been secured by fraud or deliberate suppression of material facts cannot, according to the respondents, be regarded as a lawful appointment so as to confer an indefeasible right upon the appointee to continue in service or to claim consequential service benefits.

120. It is further submitted that a person who secures appointment by fraud or misrepresentation cannot derive advantage from his own wrong, and the mere length of service rendered pursuant to such appointment cannot, by itself, validate an appointment which was otherwise void or contrary to the governing statutory provisions. The respondents, therefore, contend that the petitioners cannot claim any vested or enforceable right to continue in service or to receive salary merely on the ground that they have remained in service for a considerable period.

121. Learned counsel further submits that, in the facts of the present case, no prejudice has been caused to the petitioners by violation of the principles of natural justice, as the action impugned has its foundation in the alleged discovery of appointments made in breach of the mandatory statutory procedure and upon suppression or misrepresentation of material facts. It is contended that no person can be permitted to retain or derive an advantage from an appointment allegedly obtained by practising fraud.

122. It is further submitted that where the appointment itself is found to be void ab initio on account of fraud or fundamental illegality, the consequence does not partake of a disciplinary punishment imposed upon a validly appointed employee. The respondents, therefore, contend that the provisions relating to disciplinary inquiry under the U.P. Government Servant (Discipline and Appeal) Rules, 1999 are not attracted in the same manner to an appointment which is void from its inception.

123. On the aforesaid premises, learned counsel submits that the petitioners have failed to establish any legally enforceable right to continue in service or to claim salary from the State Exchequer. The writ petition, therefore, lacks merit and is liable to be dismissed, and the petitioners are not entitled to any relief.

124. Counter affidavits have been filed by respondent nos. 4, 4A, 4B, 4C, 4D, 4E & 4F, respective Committee of Managements, wherein they have annexed the record of proceedings for selection including advertisement, appointment letters, approval letters of the petitioners who have been appointed in their institutions, to establish that the appointment of the petitioners have been made in accordance with the procedure as prescribed under law.

125. Having considered the rival submissions in their entirety, this Court is of the considered opinion that the controversy requires to be examined not in isolation, but against the entire administrative chronology in which the appointments of the petitioners came to be made, scrutinised, approved, acted upon and, thereafter, reopened. The legality of the impugned action cannot be determined merely by invoking the general proposition that a statutory recruitment procedure is required to be followed. Equally, it cannot be determined merely on the strength of the petitioners' length of service. The decisive question is whether the respondents, in seeking to unsettle an administrative position which had subsisted for several years, have demonstrated, upon cogent material and in accordance with a fair procedure, that the appointments of the petitioners were contrary to a mandatory legal prescription or were procured by fraud or misrepresentation.

126. Before adjudicating the matter on merits, it would be appropriate to place the orders, which were passed by this Court after hearing the parties:

Order Dated 17.09.2025:

❖1. Learned counsels for the petitioners are permitted to implead Committee of Management, as respondent no.4, in the aforesaid petitions i.e Writ A No.11862 of 2025 and Writ A No.13529 of 2025, in the array of parties, during the course of the day.

2. Heard learned counsels for the petitioners, Mr. Anoop Trivedi, learned Additional Advocate General, assisted by Mr. Ashish Kumar Nagvanshi, learned Additional Chief Standing Counsel for the State.

3. The Writ A No.11862 of 2025 has been filed with the following prayers:-

❖(a) A writ order or direction in the nature of certiorari quashing the impugned order dated 29.07.2025 having letter no.1195/26-2-2025/1828248 and impugned order dated 29.07.2025 having letter no.1197/26-2-2025/1828248 passed by Additional Chief Secretary, Department of Social Welfare, Anubhag-2, U.P. Shashan Lucknow.

(b) A writ order or direction in the nature of mandamus commanding the respondents-authorities not to interfere in peaceful functioning of the petitioners as Assistant Teacher in their respective institutions and also make payment of salary to the petitioners as and when it comes due month to month.❖

4. The Writ A No.12266 of 2025 has been filed with the following prayers:-

❖(a) Issue a writ order or direction in the nature of certiorari quashing the impugned orders no.1189/26-2-2025/1828248 dated 24/28.07.2025 as well as impugned order no.1195/26-2-2025/1828248 dated 24/29.07.2025 both passed by respondent no.1 Additional Chief Secretary, Department of Social Welfare, Anubhag-2, U.P. Shashan Lucknow.

(b) Issue a writ order or direction in the nature of mandamus commanding the respondents-authorities not to interfere in peaceful functioning of the petitioners as Assistant Teacher in their respective institutions and also make payment of salary to the petitioners as and when it comes due month to month.❖

5. Writ A No.11796 of 2025 has been filed with the following prayers:-

❖(a) Issue a writ order or direction in the nature of mandamus directing the respondent nos.5 and 7 i.e. District Social Welfare Officer, District Azamgarh and District Magistrate, Azamgarh to consider and decide the representation of the principal of the respondent no.8 Institution specifically vis-a-vis whether all the petitioners come within the category/time period for which the complaint/letter dated 28.07.2025 relates to.

(b) Issue a writ order or direction in the nature of mandamus commanding the Director, Harijan and Samaj Kalyan, U.P. Lucknow and District, Social Welfare Officer, District Azamgarh to release the salary of the petitioners month to month.❖

6. Writ A No.13529 of 2025 has been filed with the following prayers:-

❖(a) A writ order or direction in the nature of certiorari quashing the impugned order dated 29.07.2025 having letter no.1195/26-2-2025/1828248 and impugned order dated 29.07.2025 having letter no.1197/26-2-2025/1828248 passed by Additional Chief Secretary, Department of Social Welfare, Anubhag-2, U.P. Shashan Lucknow, respondent no.1.

(b) A writ order or direction in the nature of mandamus commanding the respondents-authorities not to interfere in peaceful functioning of the petitioners as Assistant Teacher in their respective institutions and also make payment of salary to the

petitioners as and when it comes due month to month. ♦

7. Writ A No.13524 of 2025 has been filed with the following prayers:-

♦(a) Issue a writ order or direction in the nature of certiorari quashing the impugned orders no.1189/26-2-2025/1828248 dated 24/28.07.2025 as well as impugned order no.1195/26-2-2025/1828245 dated 24/29.07.2025 both passed by respondent no.1 Additional Chief Secretary, Department of Social Welfare, Anubhag-2, U.P. Shashan Lucknow.

(b) Issue a writ order or direction in the nature of mandamus commanding the respondents-authorities not to interfere in peaceful functioning of the petitioners as Assistant Teacher in their respective institutions and also make payment of salary to the petitioners as and when it comes due month to month. ♦

8. Learned counsels for the petitioners submit that petitioners in the aforesaid petitions are Assistant Teachers, who have been appointed in the Institution by the Committee of Management with the approval of District Social Welfare Officer, District-Mau. They are fulfilling all necessary qualifications for appointment on the post of Assistant Teachers. However, by some inquiry as held behind the back of the petitioners, the impugned order has been passed.

9. Learned counsels for the petitioners further submit that the respondents have not been able to provide the Rules or the Government order, on the basis of which they say that the approval for the appointment on the post of Assistant Teachers was required. As the orders have been passed without giving any notice or opportunity of hearing to the petitioners, therefore, the order impugned is bad in the eyes of law.

10. Answering the aforesaid, learned counsel representing the State, emphasizing upon page-40 of the writ petition, submits that the conditions stipulated in the letter, require an approval for the purposes of making payment of salary to the petitioners. Another condition as stipulated is that if there is any concealment on the part of the petitioners with respect to any educational documents, the appointment stands cancelled and the recovery order shall be issued accordingly.

11. This Court, after hearing the learned counsel for the parties, feels that proper notices should have been issued to the petitioners prior to passing the order impugned.

12. With regard to other questions framed regarding the procedure for approval of appointment letter, learned counsel for the respondents requests for time to file counter affidavit.

13. When a query was put to learned counsel for the respondents as to what action has been taken against the petitioners as well as the erring officials, he informs that notices have been issued to each petitioner as well as the officials responsible for the aforesaid conduct, as mentioned in the order impugned.

14. Learned counsel for the respondents prays for and is granted six weeks ♦ time to file counter affidavit. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

15. Issue notices to the Committee of Management in the aforesaid petitions returnable at an early date.

16. Connect the present petition with Writ A No.13529 of 2025 (Kuldeep Narain and others Vs. State of U.P. and others) and Writ A No.13524 of 2025 (Ganesh Shankar Yadav and others Vs. State of UP and others).

17. List on 10.11.2025 along with connected matters.

18. Till the next date of listing, recovery, if any, pursuant to the order impugned, shall remain stayed, in the aforesaid petitions.

19. Needless to say that respondents shall bring on record the final outcome of the proceedings, after conclusion of the same, pursuant to the notices issued to all concerned. ♦

Order Dated 27.07.2026:

♦1. Heard learned counsel for the petitioners and Mr. Anoop Trivedi, learned Additional Advocate General, assisted by Mr. Ashish Kumar (Nagvanshi), learned Additional Chief Standing Counsel for the State.

2. Mr. Anoop Trivedi, learned Additional Advocate General, assisted by Mr. Ashish Kumar (Nagvanshi), learned Additional Chief Standing Counsel for the State submits that the petitioners are not aggrieved by any of the orders impugned in the present petition. In this regard, it is submitted that the order dated 29.07.2025, passed by the Additional Chief Secretary, Department of Social Welfare, is merely a direction issued to all the District Magistrates in the State of Uttar Pradesh to conduct an inquiry into the appointments of teachers made since the year 2014 in primary schools aided by the Social Welfare Department and recognized by the Basic Education Department.

3. He further contends that the second order dated 29th July, 2025, issued by the Joint Secretary to the Additional Chief Secretary, refers to the letter of the Legislative Assembly dated 25th June, 2025 concerning an inquiry into appointments made since the year 2014 to the posts of Assistant Teachers in aided primary and upper primary/junior high schools run by the Social Welfare Department in various districts of Uttar Pradesh. The said order forwards the inquiry report relating to District Mau and requests that the aforesaid inquiry report be taken into consideration and that necessary action be taken accordingly.

4. Since the impugned orders merely initiate/forward an inquiry and do not, by themselves, affect any right, status, appointment or service condition of the petitioners, the petitioners cannot be said to be persons aggrieved by the said orders. The writ petition, insofar as it challenges these orders, is therefore premature. The orders dated 25th April, 2025, 13th June, 2025, 17th June, 2025, and 23rd June, 2025, submitted by the District Basic Education Officer, Mau, to the District Social Welfare Officer, Mau, pertains to the forwarding of approval relating to the grant-in-aid sanctioned to schools by the Social Welfare Department during the year 2025-2026.

5. The said communications were issued in connection with the aforesaid subject and pursuant to the query raised by the District Social Welfare Officer, Mau. In response thereto, details regarding the approval of the appointments of Assistant Teachers were furnished. Thus, the aforesaid communications are nothing but reports submitted pursuant to the directions issued by the State Government and the query raised by the District Social Welfare Officer, Mau, regarding the approval of the appointments of Assistant Teachers in the concerned institution. The said communications merely furnish the information sought and do not, by themselves, determine or adversely affect any right or status of the petitioners. Accordingly, the aforesaid communications are merely reports submitted in the course of an administrative inquiry and cannot be treated as orders by which the petitioners can claim to be aggrieved.

6. The letter dated 18th July, 2025 is a communication issued by the District Social Welfare Officer, Mau, to the Committee of Management of the concerned institutions, informing it that, upon inquiry and verification of the approval, it was found that the approval relating to the appointment of the concerned Assistant Teachers had not been issued by the office of the District Basic Education Officer, Mau. The communication further directs the Committee of Management to take necessary action in respect of the non-approval of the appointment of the Assistant Teacher and to ensure that the District Social Welfare Officer is duly informed of the action taken.

7. Thus, the aforesaid orders are essentially notices issued to the Committees of Management, requiring them to furnish their explanation and conduct an inquiry concerning the appointments of the teachers in the respective institutions. The said orders do not finally determine any right or liability of the petitioners, nor do they impose any adverse consequence upon them. Consequently, no adverse order has, as yet, been passed against the petitioners, and they cannot be said to be aggrieved by the aforesaid orders.

8. On the aforesaid, the counsel for the petitioners submits that perusal of the impugned orders reveal that they have been issued solely on account of a query raised regarding appointments made after the year 2014 in institutions run and managed by the Social Welfare Department. Pursuant thereto, an inquiry appears to have been conducted behind the back of the petitioners, without affording them any opportunity of hearing. Significantly, while conducting the said inquiry, the authorities have completely ignored the earlier inquiry reports as well as the findings recorded by this Court with regard to the approval of the petitioners' appointments.

9. It is further submitted that the earlier inquiry report itself categorically recorded that no prior approval was required for the appointments of the petitioners and on the basis thereof, directions had been issued for release of their salary. The said inquiry report, the consequential orders passed thereon and the findings recorded by this Court have attained finality, as they have never been questioned or challenged by the respondents.

10. Despite the aforesaid undisputed position, the respondents have proceeded to keep the grant-in-aid in abeyance, thereby effectively withholding the salary payable to the petitioners, without first setting aside or challenging the earlier orders and inquiry reports. Such action, founded upon a subsequent ex parte inquiry while disregarding binding and unchallenged findings already on record, is wholly arbitrary, contrary to the principles of natural justice, and unsustainable in law.

11. Having heard learned counsel for the parties and upon consideration of the submissions advanced, this Court is of the opinion that the presence of the Committees of Management of the institutions in question is necessary for the effective and complete adjudication of the issues involved in the present writ petition.

12. Accordingly, the District Basic Education Officer, Mau, as well as the District Social Welfare Officer, Mau, are directed to serve notice upon the respective Committees of Management of the institutions concerned i.e. i. Respondent no.4-Committee of Management Adarsh Dr. Ambedkar Shiksha Niketan, Primary Pathshala Khilla Rakauli, Bahadurganj, District-Mau; ii. Respondent no.4A-Committee of Management Adarsh Primary Pathshala Raghopatti, Pardaha, Maunathbhanjan, District-Mau; iii. Respondent no.4B-Committee of Management Anushuchit Mishrit Primary Pathshala Brahmanpur, District-Mau; iv. Respondent no.4C-Committee of Management Adarsh Harijan Basic Primary Pathshala, Devnadhur, Undura, District-Mau; v. Respondent no.4D-Committee of Management Primary Pathshala, Rajpura, Bhopaura, District-Mau; vi. Respondent no.4E-Committee of Management Adarsh Harijan Primary Pathshala Avarana, District-Mau; vii. Respondent no.4F-Committee of Management Harijan Prathamik Vidhyalaya, Rajendra Nagar, District-Mau, requiring them to file their affidavits before this Court. The affidavits shall, inter alia, disclose the action taken by them in compliance with the communication dated 12th December, 2025 issued by the Additional Director, Education (Basic), Uttar Pradesh, and place on record their explanation with respect to the appointments in question.

13. The Additional Chief Secretary, Department of Social Welfare, Government of Uttar Pradesh, is also directed to file a personal affidavit explaining the circumstances in which the salary of the petitioners has been withheld, despite the earlier findings and inquiry reports, including those placed on record in Writ-A No. 9770 of 2018 (Rajesh Tiwari and 10 others vs. State of U.P. and 9 others), wherein the approval relating to the petitioners' appointments was found to exist. The affidavit shall further explain why the subsequent inquiry ignored the earlier inquiry report, which categorically recorded that no prior approval was required for the appointments in question, as well as the fact that two First Information Reports lodged in respect thereof culminated in final reports and have attained finality.

14. The Additional Chief Secretary shall also clarify whether any order exists setting aside or superseding the earlier inquiry reports or any material establishing that the appointments of the petitioners were contrary to the applicable statutory provisions.

15. The Additional Chief Secretary shall further place before this Court the procedure prescribed for dealing with issues raised before the Legislative Assembly, particularly where such issues concern appointments already subjected to inquiry, and shall explain why the said procedure was not followed before issuing the impugned communications challenged in the present writ petition.

16. The aforesaid affidavits shall be filed on or before the next date fixed in the matter.

17. Put up this case, as fresh, on 11.08.2026 along with connected petitions.

18. The learned Additional Advocate General, Mr. Anoop Trivedi, assisted by learned Additional Chief Standing Counsel, Mr. Ashish Kumar Nagvanshi, as well as the Registrar (Compliance) of this Court, shall ensure due compliance of the aforesaid orders. ❖

127. The first circumstance which merits consideration is the genesis of the present inquiry. The inquiry was instituted pursuant to the questions raised in the Legislative Assembly concerning appointments of Assistant Teachers made after the year 2014 in the institutions in question. The Government, in consequence thereof, directed the authorities to undertake an inquiry. The origin of the inquiry, therefore, is legislative in the sense that the executive was called upon to ascertain and place before the Legislature the factual position concerning the appointments in question. But the circumstance that an inquiry has

been occasioned by a question in the Legislative Assembly does not, in law, convert the allegation underlying the question into an established fact. Nor does it dispense with the elementary obligation of the executive authority to ascertain the facts objectively and in accordance with law.

128. A question raised in the Legislative Assembly may legitimately set the administrative machinery in motion. It may require the Government to collect information, verify records and ascertain whether the facts disclosed to the Legislature are correct. But the executive authority, while answering such a question, cannot proceed upon a presumption that the very allegation contained in the question stands proved against every person falling within its descriptive ambit. The legislative question constitutes the occasion for inquiry; it does not constitute the proof of culpability.

129. It was, therefore, incumbent upon the respondents, at the threshold, to ascertain the precise ambit of the question raised before the Legislative Assembly and the consequential government directions issued pursuant thereto. The authority was required to determine whether the inquiry was confined to identification of appointments made after a particular date, verification of the existence of approvals, examination of the recruitment procedure, or investigation into specific allegations of fraud or illegality. These are not interchangeable inquiries. Each entails a different factual exercise and, where adverse consequences are contemplated, different procedural consequences.

130. The record further indicates that the Government subsequently prescribed the information and material which were required to be furnished, including particulars of appointments, dates of appointment, approval particulars and supporting documentary material. The essential character of the exercise was thus one of verification of the appointments and the records upon which they rested.

131. If the inquiry thereafter assumed the character of an adjudication resulting in a declaration that an individual appointment was fraudulent or void, the authority was necessarily required to cross the additional threshold of establishing the individual facts constituting such illegality.

132. The Court cannot lose sight of the fact that these appointments had already been subjected to a substantive departmental scrutiny. By order dated 10.08.2018, a three-member Inquiry Committee was constituted. The Committee undertook an inquiry into the appointments and, according to the record, afforded opportunity to the concerned persons and examined the relevant judgments, statutory provisions, Rules, Government Orders and the prevailing procedure and practice governing appointments in institutions receiving aid from the Social Welfare Department. The Committee submitted its report dated 28.11.2018.

133. The subsequent conduct of the State Government assumes still greater significance. Upon consideration of the earlier inquiry, the Government, by order dated 24.07.2019, cancelled the approvals of four teachers whose educational qualifications could not be verified. Significantly, the appointments of the present petitioners were not cancelled pursuant to that exercise. Thus, the State, having undertaken an inquiry in which individual cases were capable of being separated and adverse action was in fact taken against four persons, consciously refrained from cancelling the appointments of the present petitioners.

134. The petitioners thereafter continued in service and continued to receive salary under the government arrangement then obtaining. The earlier inquiry was thus not an academic exercise which remained sterile upon the official record. It culminated in government's action, and the petitioners' appointments survived that scrutiny. The subsequent State action must consequently be judged against this historical fact.

135. It would be legally facile to say that because the earlier inquiry was not a judgment of a constitutional court, it may simply be ignored. Administrative decisions may undoubtedly be revisited where law so permits. But an earlier inquiry conducted by a duly constituted committee, followed by consideration by the competent government authority and consequential action, constitutes relevant administrative material. A later authority cannot legitimately proceed as though the earlier exercise had never taken place.

136. The order dated 23.04.2018 passed by this Court in Writ-A No. 9770 of 2018 is also of relevance. While directing payment of salary on a month-to-month basis, this Court had left it open to the competent authorities to examine the legality of the appointments and to pass appropriate orders in accordance with law. The expression "in accordance with law" is not an ornamental appendage. It constituted the governing condition upon which the liberty to examine the appointments was reserved. The subsequent inquiry of 2018-2019 was thus the very administrative exercise through which the State was required to examine the matter in accordance with law.

137. The respondents nevertheless seek to justify the present action by placing reliance upon Rule 9 of the Rules of 1975, as amended, and upon the decisions in Amrit Yadav (supra), Mandeep Singh (supra) and Hari Lal (supra). The principle sought to be drawn from these decisions is that where the legislature or rule-making authority has prescribed a mandatory mode of recruitment, neither the appointing authority nor the employee can disregard it, and subsequent continuance in service cannot, by itself, cure a foundational illegality. The aforesaid proposition, as a statement of law, is unexceptionable.

138. But the proposition does not answer the controversy before this Court. There is a world of difference between saying that a mandatory statutory requirement cannot be waived and saying that the petitioners' appointments have been established to be in breach of such a requirement. The respondents must traverse that intervening factual and legal distance before the drastic consequence of declaring the appointments illegal can follow.

139. The respondents were therefore required to establish, with precision, the statutory regime applicable on the date of each appointment; the precise requirement contained therein; its mandatory character; the particular manner in which it was allegedly violated; and the documentary or other material establishing such violation in the case of each petitioner. A statutory provision cannot be invoked in the abstract. It must be applied to the factual matrix of the individual appointment.

140. It is at this juncture that a material infirmity emerges in the respondents' case. The respondents do not appear to maintain a consistent position regarding the necessity of prior approval of the District Basic Education Officer. One facet of the respondents' case proceeds on the premise that such approval was an indispensable statutory requirement under Rule 9. Another departmental position, emerging from the earlier administrative material, proceeds on a different understanding of the regulatory framework applicable to institutions receiving grant-in-aid from the Social Welfare Department and treats the

question of District Basic Education Officer approval differently.

141. This divergence cannot be dismissed as an inconsequential difference of departmental expression. It goes to the root of the matter. If prior approval of the District Basic Education Officer was a mandatory condition precedent to the validity of every appointment in question, the respondents must identify the precise source of that obligation and demonstrate its applicability to the institutions and appointments under consideration. If, however, the earlier departmental understanding was that the regulatory regime applicable to Social Welfare aided institutions did not render such approval indispensable in the manner now asserted, that position too cannot simply be erased from the administrative record.

142. The State cannot, in the same breath, maintain two mutually discordant constructions of the governing law and then select whichever construction produces an adverse consequence against the petitioners. Before an appointment is condemned as illegal on the ground of absence of approval, the legal necessity of that approval must itself be placed beyond reasonable administrative ambiguity.

143. This becomes particularly significant because the petitioners do not rest their case upon oral assertions alone. The record contains material concerning advertisements, selection proceedings, appointment letters, approval communications and financial approval. The management respondents have themselves relied upon selection records, advertisements, appointment letters and approval documents in support of the appointments. The existence of such material may ultimately be accepted or rejected upon verification. But its presence imposes upon the authority a duty of examination; it cannot be displaced by a bare administrative assertion that approval was absent.

144. The material concerning petitioner no. 11 is illustrative. The petitioners rely upon information obtained under the Right to Information Act indicating an entry in the dispatch register of the office of the District Basic Education Officer dated 07.04.2016 at Serial No. 60 concerning the approval in question. The Court does not, at this stage, pronounce upon the ultimate legal effect of that entry. It is sufficient to observe that when a contemporaneous official register is produced which prima facie bears upon the very existence of the approval, the question cannot be concluded merely by stating that no approval is available in the present record of the office.

145. The distinction between non-existence and non-traceability is elementary but fundamental. An approval may not presently be traceable in the record room for several reasons. That circumstance, without more, cannot automatically establish that the approval was never issued, much less that the petitioner fabricated it. Where the allegation is one of fabrication or fraud, the evidentiary burden necessarily becomes more exacting.

146. The petitioners have also relied upon the stand taken by the departmental authorities in another proceeding, where the appointment in question was treated as genuine. The complete record of that proceeding is not before the Court in such form as would warrant reproduction of its precise language. Nevertheless, the principle which emerges from the departmental conduct is relevant. When the State, through its competent authority, has in one proceeding acknowledged or acted upon the genuineness of an appointment or the existence of the underlying official record, a subsequent contrary stand cannot be accepted without a satisfactory explanation for the departure. Consistency in public administration is not a matter of administrative grace. It is an incident of fairness and non-arbitrariness.

147. The State is not irrevocably bound by an erroneous administrative decision. There can be no estoppel against a statute. But before the State repudiates its own earlier position, particularly after years of acquiescence and consequential government's action, it must identify the legal and factual foundation which necessitates such repudiation. A mere change of opinion is not synonymous with discovery of illegality.

148. The respondents' reliance upon the maxim that fraud vitiates every solemn act must also be examined in this doctrinal setting. Fraud, if established, undoubtedly strikes at the root of every legal transaction. No equitable consideration can sanctify an appointment obtained by deliberate deception. But the maxim operates after fraud is established. It cannot be employed as a substitute for the evidence required to establish fraud.

149. The allegation of fraud in the present case, therefore, required particularisation. The authority was required to identify the false representation, the fabricated or manipulated document, the suppression of the material fact, the person responsible for it, and the nexus between such conduct and the appointment of the concerned petitioner. A conclusion that an appointment is fraudulent cannot rest upon the mere incantation of the word "fraud".

150. It is equally difficult to sustain the allegation of fraud or misrepresentation merely on the ground that the original records pertaining to the approval of the appointments are not presently traceable. The absence or non-production of an official record may undoubtedly give rise to a necessity for verification, but it does not, in the absence of further incriminating material, metamorphose into proof of a fraudulent act on the part of the appointee. Fraud is a matter of substance and cannot be inferred merely from an administrative hiatus in the preservation or production of records. The person against whom such a serious imputation is levelled must be shown to have knowingly made a false representation, fabricated or procured a false document, suppressed a material fact, or otherwise participated in an act calculated to deceive.

151. The principle stands authoritatively enunciated by the Supreme Court in the case of Naresh Kumar Sinha v. State of Bihar and others, 2025 INSC 814, wherein, in the context of an appointment alleged to be forged on account of non-availability of the relevant official records, the Court held that non-traceability of the record does not ipso facto render the appointment forged or fabricated. The Court further held that a mere allegation of fraud, bereft of its foundational facts, is insufficient and that, where the record is not traceable, the appropriate course is to enquire into the circumstances attending its non-availability rather than to visit the employee with the stigma of fraud. The Supreme Court consequently held that a mere assertion founded upon non-issuance or non-availability of the appointment record could not, by itself, constitute proof of fraud.

152. Tested on the aforesaid anvil, the respondents cannot legitimately infer misrepresentation or fraud solely from the non-availability of the original approval records. Such an inference would impermissibly substitute suspicion for proof and administrative non-production for an affirmative finding of fraudulent conduct. Unless there is cogent material establishing that the petitioners themselves were privy to, or responsible for, any fabrication, suppression or conscious misrepresentation in

procuring the approvals, the mere disappearance or non-traceability of departmental records cannot furnish a lawful basis to stigmatise their appointments as fraudulent.

153. The respondents' submission that natural justice is excluded in cases of void appointments must consequently be approached with similar circumspection. If an appointment is demonstrably void ab initio because of a foundational statutory prohibition or established fraud, the consequences may indeed follow in accordance with law. But the very premise whether the appointment is void, is what requires determination. An authority cannot first presume the foundational illegality and thereafter invoke that presumed illegality to dispense with the opportunity of hearing. That would invert the very order of adjudication.

154. The principle of audi alteram partem is particularly attracted where an administrative verification is transformed into a finding carrying serious civil consequences. The reports dated 25.04.2025, 13.06.2025, 17.06.2025 and 23.06.2025 were relied upon for the proposition that the requisite approval was not available. The petitioners assert that they were not afforded an effective opportunity to establish the existence and genuineness of the approvals before those adverse conclusions were recorded. If the authority proposed to rely upon the absence of an official record as the foundation for adverse action, fairness required that the persons whose appointments were thereby imperilled should have an opportunity to produce the material in their possession and to invite verification from the original government records.

155. The matter is rendered still more serious because the consequences were not confined to an internal administrative note. The order dated 18.07.2025 directed the managements to take action against the petitioners on the basis that the requisite approval was not available. Thus, what commenced as an administrative verification was permitted to assume the character of an adverse determination affecting the service status of the petitioners.

156. The later order dated 12.12.2025, whereby the grant for payment of salary was stayed and explanations were sought from the managements, further demonstrates that the inquiry had consequences extending directly to the livelihood of the teachers concerned. Once administrative action travels to this stage, procedural fairness cannot be reduced to a technicality.

157. The Court must also keep in view that the petitioners' appointments were made at different points of time and passed through different stages of administrative scrutiny. A collective finding that "appointments after 2014 were illegal" cannot substitute for a petitioner specific determination. The validity of each appointment must necessarily depend upon the law applicable on the relevant date and the documentary and factual circumstances attending that appointment.

158. The judgments relied upon by the petitioners do not lay down any proposition that an illegal appointment becomes lawful merely because the incumbent has served for several years. Such a proposition would be contrary to the settled principle that there can be no estoppel against statute. But the petitioners' reliance upon the judgements in the case of *The State Of U.P. Through Special Secretary (Basic Education) And 3 Others v. The Committee Of Management Sri Durga Ji Purva Madhyamik Balika Jamin And Another*, Special Appeal No. 25 of 2021 and *Subodh Kumar (supra)* has a different and legitimate field of operation. These authorities underscore the importance of government scrutiny, approval and the consequences flowing from prolonged official recognition of an appointment.

159. The proper synthesis of the authorities cited by both sides is therefore neither that government's approval invariably cures illegality nor that government's approval is legally irrelevant. The correct principle exacting is that where a mandatory statutory requirement governs an appointment, it must be complied with. But where the State seeks to annul an appointment on the ground of non-compliance, it must establish the applicability of that requirement, the precise breach and the factual foundation for attributing that breach to the particular appointment. Where the State further alleges fraud, it must establish the particular fraudulent conduct.

160. This Court is consequently unable to accept the respondents' submission that the mere invocation of Rule 9 concludes the matter. Rule 9 may supply the normative standard; it does not supply the factual proof of its violation. Equally, this Court is unable to accept the petitioners' contention in its widest form that their appointments have become invulnerable merely by reason of previous approval and prolonged service. The adjudication must remain anchored to the governing law and the verified record.

161. What weighs with the Court is that the earlier administrative inquiry did not culminate in a finding against the present petitioners. On the contrary, the State Government acted upon that inquiry and cancelled the approvals of four other teachers while leaving the present petitioners untouched. If the State now proposes to reach the opposite conclusion, it must demonstrate what has changed: whether a new document has surfaced, whether an earlier document has been proved fabricated, whether a material fact was suppressed, whether the earlier inquiry proceeded upon an erroneous legal assumption, or whether some other legally cognisable ground has emerged. The mere repetition of an allegation previously examined cannot, by itself, constitute fresh material.

162. The subsequent inquiry, therefore, cannot be regarded as an occasion for administrative amnesia. The earlier inquiry, its findings and the government's decision thereon form part of the institutional history of the appointments and must necessarily be considered. A later inquiry may supplement an earlier inquiry. It may even correct an earlier inquiry where demonstrable error or fresh material warrants correction. But it cannot simply erase the earlier exercise from consideration.

163. The Court is also unable to overlook the peculiar position of the petitioners. They are individual teachers who have continued in service for years under the authority and supervision of the State. Their appointments were not clandestine transactions between private individuals. The appointments, according to the record, travelled through institutional selection, departmental scrutiny and government financial approval. Where the State's own machinery has repeatedly participated in and acted upon an appointment, the subsequent burden of administrative justification becomes correspondingly exacting.

164. This is where equity enters the field, not as a means of overriding statute, but as a constitutional principle governing the exercise of public power. Equity does not say that an illegal appointment shall be preserved because the employee has served for a long period. Equity says that the State, having itself created and sustained a particular administrative position, cannot destroy it upon an unexplained volte-face, particularly where the employee is visited with grave civil consequences and the very records of the State appear to furnish material requiring further verification.

165. The equitable doctrine applicable here is therefore one of fairness in the exercise of public power, not indulgence towards illegality. The distinction is vital. The Court would be failing in its constitutional duty if it were to validate an appointment merely because its continuance appears equitable. But the Court would equally fail in its constitutional duty if it permitted the State to condemn an appointment as fraudulent or void without establishing the factual and legal foundation for such a conclusion.

166. The present controversy thus reveals two competing considerations, neither of which can be permitted to eclipse the other. The first is the imperative of statutory compliance. The second is the imperative of fair and non-arbitrary administrative action. The first prevents the Court from legitimising an appointment which is demonstrably prohibited by law. The second prevents the State from treating a disputed allegation as established illegality without proper verification and adjudication.

167. The constitutional balance is achieved by insisting upon proof. If the appointment is illegal, the State must demonstrate its illegality; if the approval is fabricated, the State must demonstrate its fabrication; if fraud is alleged, the State must demonstrate the fraudulent act; if the statutory provision is mandatory, the State must establish its applicability; if the earlier government's conclusion is to be displaced, the State must explain the legal and factual basis for such departure. Nothing less would satisfy the requirement of reasoned administrative action.

168. There is yet another aspect of the matter which cannot be overlooked. The foundation upon which the appointments of the petitioners are now sought to be impeached appears to have undergone a discernible shift. The respondents now contend, on the one hand, that approval of the District Basic Education Officer was indispensable and, on the other, that in certain cases the corresponding records are not available or the requisite entries are not traceable in the dispatch register. Neither circumstance, considered in isolation or conjointly, can furnish an automatic warrant for treating the appointments as non est, much less for attributing fraud or misrepresentation to the petitioners.

169. The absence of an entry in an official register is, at the highest, a circumstance requiring verification. It cannot, without more, be elevated into affirmative proof that the approval was never granted or that the petitioners procured their appointments by deception. The distinction is not merely semantic but goes to the root of the matter. An administrative record may be lost, misplaced, inadequately maintained, incorrectly entered or otherwise rendered unavailable. The burden of such administrative deficiency cannot, without cogent material, be shifted upon an employee who has been continuously discharging his duties for several years under the authority and within the knowledge of the very administration which is now questioning the appointment.

170. The principle assumes greater significance in view of the judgment of the Supreme Court in the case of Naresh Kumar Sinha (supra). The Supreme Court, in circumstances where an appointment was assailed after a prolonged period of service on the ground of non-availability of the relevant official record, categorically held that non-traceability of the record does not ipso facto render the appointment forged or fabricated. The Court further held that a mere allegation of fraud, unsupported by its foundational facts and an appropriate enquiry, cannot constitute a lawful basis for terminating an employee who has served for a considerable period.

171. Equally, the respondents cannot be permitted to sustain the impugned action by successively furnishing new grounds in justification of an otherwise uncertain conclusion. The principle enunciated in the case of Mohinder Singh Gill and another v. Chief Election Commissioner, New Delhi and others, (1978) 1 SCC 405, is that an administrative order must ordinarily stand or fall upon the reasons which informed the decision and cannot subsequently be fortified by supplying altogether fresh grounds.

172. More fundamentally, the respondents have not, in the material placed before the Court, identified with requisite precision the statutory or regulatory provision which governed the appointments of the petitioners at the relevant point of time, nor have they demonstrated, petitioner-wise, the particular mandatory requirement which was allegedly breached. It is not sufficient for an authority, years after the appointments were made and acted upon, to assert in the abstract that approval of a particular officer was necessary. The authority must first establish the source of such requirement, its temporal applicability, the competence of the appointing authority, and the legal consequence which the governing rule attaches to non-compliance therewith.

173. The necessity of such an exercise is reinforced by the judgment in Kranti Associates (P) Ltd. and another v. Masood Ahmed Khan and others, (2010) 9 SCC 496, wherein the Supreme Court emphasised that reasons constitute an indispensable component of administrative decision-making and that the reasons must disclose a rational nexus between the material relied upon and the conclusion reached.

174. In the present case, the contemporaneous record of the Committee of Management is stated to support the appointments; the petitioners have admittedly continued in service for years; and the respondents have themselves acted upon their appointments for a considerable period. In such circumstances, the subsequent discovery that some departmental records are unavailable or that a particular entry cannot presently be located in the dispatch register cannot, without a demonstrable violation of an identified statutory requirement, retrospectively efface the appointments or convert them into fraudulent appointments.

175. This Court is conscious that length of service, by itself, cannot legalise an appointment which is demonstrably contrary to a binding statutory rule. Equally, however, length of service cannot be treated as wholly irrelevant where the State seeks, after several years of acquiescence and administrative recognition, to dislodge an appointment upon the slender foundation of missing departmental records. The decisive question, therefore, is not how long the petitioners have served, but whether the respondents have established, by reference to the rule actually governing the appointments and by cogent material, that the appointments were made in violation of a mandatory statutory requirement.

176. In the absence of such foundational determination, the conclusion that the appointments are invalid would rest not upon demonstrated illegality but upon an inference drawn from administrative non-availability of records. Such an inference would be too fragile a foundation upon which to rest an adverse civil consequence of the magnitude presently contemplated by the respondents. Thus the State must first identify the rule which governed the appointment before it can pronounce the appointment to be contrary to the rules.

177. The State authorities, while undertaking any subsequent verification of the appointments, must bear in mind a distinction which is fundamental in law: absence of an official record is not synonymous with proof of fraud. The mere circumstance that an approval order is not presently available in the departmental file, or that a corresponding entry cannot be located in the dispatch register, cannot, by itself, be elevated into a finding that the appointment was procured by fraud or misrepresentation.

178. The distinction assumes particular significance where the allegation is directed against persons who have entered service pursuant to proceedings recorded by the Committee of Management and have thereafter continued to discharge their duties for a considerable length of time. A deficiency in the preservation, maintenance or retrieval of an official record is, in the first instance, an administrative circumstance. It may undoubtedly warrant verification; but it cannot, without some further and affirmative material, be transformed into proof of culpable conduct on the part of the employee.

179. The Supreme Court in *Naresh Kumar Sinha* (supra), has authoritatively underscored this very principle. There also, the State relied upon the non-traceability of the appointment record and discrepancy in the dispatch record to sustain an allegation that the appointment was forged. The Supreme Court held that where the record is not traceable, such circumstance does not ipso facto render the appointment forged or fabricated. It further held that mere departmental correspondence alleging non-issuance of an appointment memo is insufficient to establish fraud and that, where such a serious allegation is made after prolonged service, the Department must have an adequate factual foundation and conduct an appropriate enquiry into the alleged forgery. The Court specifically observed that, in the absence of such foundation, a mere plea of non-traceability of the record is insufficient.

180. The principle is of particular relevance here. If the State's present case is that an approval was required, it must first establish the source of that requirement, identify the statutory or regulatory provision governing the appointment on the relevant date, and demonstrate by cogent material that the prescribed requirement was in fact not complied with. It cannot proceed by an impermissible chain of assumptions, namely, that the approval record is not available, therefore the approval was never granted; that the approval was never granted, therefore the appointment was irregular or illegal; and that the appointment was consequently procured by fraud. Each of these propositions requires independent legal and factual substantiation; none follows inexorably from the preceding one.

181. More importantly, the burden of an administrative lapse in preservation or production of records cannot casually be transposed upon the employee and thereafter used as the foundation for a stigma of fraud. If the Department asserts that the relevant record has disappeared or cannot be traced, the first enquiry must necessarily be directed towards discovering what became of the record and who was responsible for its custody, rather than presuming that its non-availability is attributable to the employee whose appointment is under scrutiny. The Supreme Court in *Naresh Kumar Sinha* (supra) went so far as to observe that, where the departmental record was not traceable, it was incumbent upon the Department to identify the circumstances in which it had gone missing and to enquire into the responsibility for its non-production.

182. Accordingly, the State authorities would be required to proceed upon evidence and not upon conjecture. A missing record may justify an enquiry; it cannot, without more, constitute the result of that enquiry. A missing dispatch entry may require verification; it cannot, by itself, become proof of fraudulent procurement of appointment. To hold otherwise would be to convert an uncertainty in the official record into a certainty of culpability against the employee, an inference which the law does not countenance.

183. The Court is, therefore, of the considered view that the mere absence of an approval record or the inability to locate a corresponding entry in the dispatch register cannot, standing alone, displace the contemporaneous record of appointment, invalidate an appointment which has been acted upon for years, or justify the grave imputation of fraud or misrepresentation. If the respondents seek to disturb such appointment, they must establish, upon identifiable statutory provisions and cogent material, the precise illegality committed in the making of the appointment. What the State cannot do is to substitute the absence of its own record for proof of the petitioner's wrongdoing.

184. In the considered opinion of this Court, the present adverse reports, insofar as they proceed principally upon the assertion that the requisite approval was not available, do not adequately answer these foundational questions. They do not, in their present form, satisfactorily reconcile the earlier departmental inquiry, the government order dated 24.07.2019, the documentary material relied upon by the petitioners and the managements, the divergent departmental positions regarding the necessity of approval, and the subsequent administrative conduct of the State.

185. The defect is consequently not merely one of insufficient reasoning in the narrow administrative sense. It goes to the epistemic foundation of the adverse conclusion. The authority appears to have treated the absence of a presently traceable record as equivalent to proof that the approval never existed. That inference, particularly in the face of contemporaneous material relied upon by the petitioners, requires considerably more scrutiny than is evident from the impugned exercise.

186. The Court, therefore, is not persuaded that the adverse conclusion can presently be sustained as a legally conclusive determination of the invalidity or fraudulent character of the petitioners' appointments. At the same time, the Court does not pronounce, merely upon the material presently available, that every appointment of every petitioner is conclusively valid irrespective of the governing statutory requirements. Such a declaration would travel beyond the legitimate province of judicial review.

187. The appropriate course is consequently to restore the inquiry to its proper juridical footing. The respondents may undertake or complete the inquiry, if otherwise authorised by law, but the exercise must remain confined to the terms of the government mandate issued pursuant to the Legislative Assembly question. It must proceed upon primary records and the applicable legal regime. It must take into account the earlier inquiry and the decision taken thereon. It must reconcile the divergent departmental positions regarding District Basic Education Officer's approval. It must examine the documentary material produced by the petitioners and the managements. And, where an adverse conclusion carrying civil consequences is contemplated, the affected petitioner must be afforded a meaningful opportunity to meet the material relied upon against him or her.

188. The inquiry must, furthermore, be individualised. Each petitioner's appointment shall be tested independently with

reference to the date of appointment, the law then applicable, the qualification possessed, the selection process undertaken, the approval allegedly granted, the financial sanction, and the primary records supporting each of these matters. A generalised conclusion cannot substitute for an individual adjudication.

189. The competent authority shall also specifically determine the legal question which lies at the heart of the respondents' divergent submissions: whether prior approval of the District Basic Education Officer was, in fact, a mandatory condition governing the appointments of the petitioners on the respective dates of their appointment. The authority shall identify the precise statutory or government provision from which such requirement is said to emanate and shall explain its applicability. Only thereafter can the factual question whether the requirement was complied with be meaningfully adjudicated.

190. In the event the respondents allege fraud or fabrication, the authority shall identify the precise document or representation said to be fraudulent, ascertain its provenance from the original records, determine who is responsible for the alleged falsity and record a specific finding supported by evidence. The mere absence of a document from a subsequently inspected file shall not, without more, be treated as proof of fabrication.

191. The competent authority shall also record its reasons for departing, if departure is ultimately considered necessary, from the earlier inquiry and the State Government's order dated 24.07.2019. It shall disclose what fresh material, if any, has necessitated the reopening of the issue and why such material was not considered or available during the earlier inquiry. A second inquiry cannot become a mechanism for obtaining a different answer merely because the first answer proved inconvenient.

192. The principle that administrative authorities may correct their own errors is undoubtedly recognised by law. But the power of correction is accompanied by the duty of explanation. The State is not required to perpetuate an error, it is required to demonstrate that what it now describes as an error was, in fact, an error. That distinction assumes decisive importance in the present case.

193. The Court is, therefore, of the considered view that the respondents cannot, on the material presently disclosed, proceed upon the assumption that the petitioners' appointments were fraudulent or void merely because the subsequent inquiry has failed to trace or recognise the approvals relied upon by them. The State must verify before it condemns.

194. The foregoing conclusion is reinforced by the fact that the present exercise arose from a legislative question. The executive owes a constitutional obligation to furnish an accurate answer to the Legislature. That obligation is best discharged through an inquiry which is transparent, record-based, legally structured and capable of surviving judicial scrutiny. An inquiry designed merely to substantiate an already formed administrative conclusion would not answer the legislative concern, it would merely reproduce an administrative assumption in the language of an inquiry report.

195. The true sequence of lawful administrative action in the present circumstances is therefore unmistakable. The legislative question; the government mandate; identification of the precise issue; collection and verification of primary records; determination of the applicable legal regime; individual opportunity to explain disputed material where adverse consequences are contemplated; petitioner-specific findings; and, thereafter, consequential action in accordance with law. Any inversion of this sequence carries with it the danger that the conclusion may precede the inquiry.

196. In the ultimate analysis, the Court finds that neither the petitioners nor the respondents can derive an absolute proposition from the authorities cited by them. The petitioners cannot invoke equity to perpetuate an appointment prohibited by statute. The respondents cannot invoke statutory rigour without first establishing that the statutory prescription relied upon actually governed the appointment and was violated. The law is not served by either extreme.

197. What the law requires is a disciplined reconciliation of statute, evidence, administrative conduct and procedural fairness. That reconciliation has not, in the opinion of the Court, been satisfactorily achieved in the impugned exercise.

198. The adverse reports dated 25.04.2025, 13.06.2025, 17.06.2025 and 23.06.2025, insofar as they are made the foundation for adverse action against the petitioners without adequately dealing with the earlier inquiry, the government decision dated 24.07.2019, the documentary material concerning approval, the divergent departmental positions and the petitioners' opportunity to explain the disputed records, cannot be treated as conclusive findings of illegality or fraud.

199. Consequently, the consequential order dated 18.07.2025, insofar as it proceeds upon the aforesaid reports and directs action against the petitioners without an independent and petitioner-specific determination founded upon verified material, cannot be sustained in its present form.

200. The respondents shall, however, remain at liberty to undertake a fresh or further inquiry strictly in accordance with law and within the parameters of the government's directions issued pursuant to the Legislative Assembly question. Such inquiry shall not be understood as an exercise to vindicate a pre-existing conclusion. It shall be an open factual determination in which the evidence is permitted to dictate the conclusion rather than the conclusion dictate the selection of evidence.

201. The competent authority shall, while undertaking such exercise, consider the earlier inquiry report dated 28.11.2018, the government order dated 24.07.2019, the relevant orders passed by this Court, the documentary material relied upon by the petitioners and managements, the records relating to approval and financial sanction, the departmental statement made in the other proceeding relied upon by the petitioners, and the subsequent material relied upon by the respondents.

202. If, upon such exercise, any particular appointment is found to be contrary to a mandatory statutory provision, or is established to have been procured by fraud or misrepresentation attributable to the concerned petitioner, appropriate consequences may follow in accordance with law. Conversely, if the records establish that the appointment was duly processed and approved under the legal regime applicable at the relevant time, the same cannot be displaced merely because a subsequent departmental authority has adopted a contrary view.

203. The State must, in other words, be permitted to correct illegality, but not to manufacture illegality by administrative presumption. It may revisit the past, but it must do so with the discipline of law. It may disagree with its earlier conclusion, but it must disclose why. It may reopen an inquiry, but it cannot reopen the matter with the answer already written.

204. This Court is conscious that judicial review does not ordinarily substitute the Court's assessment of disputed facts for that of the competent administrative authority. The Court's intervention is warranted here not because this Court proposes to

undertake the factual inquiry itself, but because the foundation upon which the adverse administrative consequences have been imposed does not presently disclose the degree of procedural fairness, evidentiary scrutiny and legal clarity required for such a grave determination.

205. The doctrine of equity, properly understood, reinforces rather than supplants this conclusion. The petitioners are entitled not to an equitable dispensation from the law, but to an equitable application of public power. A person who has remained in service for years under the sanction and supervision of the State is entitled to expect that any attempt to undo that position will be founded upon something more substantial than an unexplained administrative reversal.

206. The Court would therefore emphasize that administrative consistency is not synonymous with administrative inflexibility. The State may change its position where law and facts warrant it. What the Constitution does not countenance is an unexplained inconsistency which visits individuals with serious civil consequences while leaving unresolved the State's own contradictory positions and records.

207. In the final reckoning, the controversy must be determined not by the chronology of allegations but by the hierarchy of proof. The fact that a question was raised in the Legislative Assembly justifies inquiry. The fact that an earlier inquiry was conducted requires consideration of its findings. The fact that the State earlier left the petitioners' appointments undisturbed requires explanation before a contrary position is adopted. The fact that departmental authorities have taken divergent stands regarding approval requires resolution. The existence of contemporaneous official records requires verification. The allegation of fraud requires particular proof. And the imposition of civil consequences requires procedural fairness.

208. Once these principles are applied cumulatively, the conclusion becomes unavoidable that the petitioners cannot presently be condemned upon the existing adverse reports alone.

209. The impugned adverse reports and consequential orders shall accordingly be interfered with to the extent indicated hereinabove. The respondents shall remain at liberty to undertake a fresh determination in accordance with law, strictly within the scope of the government mandate and after considering the entire administrative record.

210. The fresh exercise shall be petitioner-specific, evidence-based and reasoned. The authority shall identify the applicable statutory provision, verify the original records, consider the earlier inquiry and the government's action flowing therefrom, confront the divergent departmental positions, examine the documents produced by the petitioners and the managements, and, wherever an adverse finding carrying civil consequences is contemplated, afford the concerned petitioner a meaningful opportunity to respond.

211. Any ultimate adverse order shall disclose the precise statutory requirement alleged to have been violated, the evidence establishing such violation, the reasons for rejecting the petitioner's documentary material, the reasons for departing from the earlier administrative conclusion and, in a case of alleged fraud, the particular fraudulent conduct attributed to the concerned petitioner. A speaking order is not merely an order containing reasons, it is an order in which the reasons reveal that the authority has actually applied its mind to the controversy placed before it.

212. It is clarified that nothing contained herein shall be construed as conferring an indefeasible right upon the petitioners to remain in service irrespective of the result of a lawful inquiry. Equally, nothing shall authorise the respondents to treat the petitioners' appointments as void or fraudulent without establishing the necessary factual and legal foundation.

213. The Court thus maintains the necessary constitutional equilibrium, statutory discipline shall not be sacrificed at the altar of equity, but equity and fairness shall equally not be sacrificed at the altar of administrative convenience. The State must prove before it penalises; verify before it condemns; hear before it visits civil consequences; and explain before it reverses its own considered administrative position.

214. For the reasons recorded hereinabove, the writ petitions deserve to be allowed. The impugned adverse reports and consequential orders, insofar as they proceed against the petitioners upon the deficient foundation noticed above, shall not be treated as conclusive determinations of the invalidity or fraudulent character of their appointments.

215. The respondents shall, however, remain at liberty to undertake a fresh and lawful verification, if considered necessary, subject to the following safeguards:

- (i) the inquiry shall remain strictly confined to the subject-matter for which it was directed pursuant to the questions raised before the Legislative Assembly and the subsequent government's directions;
- (ii) the procedure/checklist prescribed by the competent authority shall be scrupulously followed in letter and spirit;
- (iii) the earlier inquiry report dated 28.11.2018 and the consequential State Government order dated 24.07.2019 shall be taken into consideration and shall not be treated as though they are non-existent;
- (iv) the subsequent criminal investigations and the final reports shall also form part of the record and shall be objectively considered, without treating them as conclusive of the service dispute;
- (v) the original records relating to advertisement, selection, appointment, approval, dispatch-register entries, correspondence between the Basic Education and Social Welfare Departments and financial sanction shall be verified from their respective custodians;
- (vi) before any adverse finding is recorded against any petitioner, the concerned petitioner and the concerned Committee of Management shall be furnished the material proposed to be relied upon and shall be afforded a reasonable opportunity to submit their explanation and produce supporting documents;
- (vii) if fraud or misrepresentation is alleged, the authority shall record a specific finding identifying the particular act, omission, document or representation constituting such fraud or misrepresentation and its nexus with the concerned petitioner; and
- (viii) the final decision shall be a reasoned and speaking order dealing with the earlier government's determinations as well as the documentary material placed by all concerned parties.

216. It is clarified that the observations made herein shall not be construed as a final declaration that every appointment of the petitioners is immune from scrutiny or that compliance with the statutory recruitment procedure stands conclusively established. The question of ultimate validity may be determined by the competent authority upon a lawful and comprehensive examination of the entire record. Equally, the respondents shall not be permitted to proceed upon an assumption of fraud

merely because an administrative report subsequently takes a view different from the view earlier taken by the competent authorities.

217. In the peculiar facts of the case, and particularly having regard to the earlier departmental inquiry, the subsequent government action thereon, the criminal proceedings, the prolonged continuance of the petitioners pursuant to government approvals, the conflicting stands emerging from the respondents themselves, and the disputed contemporaneous official record, the ends of justice would not be served either by mechanically affirming the impugned action or by conclusively foreclosing the State from undertaking a lawful verification.

218. The impugned reports dated 25.04.2025, 13.06.2025, 17.06.2025 and 23.06.2025, and the consequential order dated 18.07.2025, insofar as they record adverse conclusions against the petitioners without the aforesaid safeguards, are accordingly set aside. The consequential action founded exclusively upon those reports shall also stand quashed.

219. The competent authority shall be at liberty to proceed afresh in accordance with the directions contained herein. Until such exercise is completed and a final reasoned decision is taken in accordance with law, the petitioners shall not be treated as having been removed from service merely on the strength of the impugned reports. Their claim for salary for the period during which they have actually discharged their duties shall be reconsidered by the competent authority in accordance with the applicable statutory and financial framework, uninfluenced by the findings which have been set aside.

220. The writ petition is, accordingly, allowed in the aforesaid terms.

221. There shall be no order as to costs.

(Mrs. Manju Rani Chauhan,J.)

September 25, 2026

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