



**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - C No. - 20441 of 2026**

Independent Self Financed Schools Association

.....Petitioner(s)

Versus

State Of Up And 4 Others

.....Respondent(s)

---

Counsel for Petitioner(s) : Subodh Kumar, Udit Chandra  
Counsel for Respondent(s) : Anjali Upadhya, C.S.C.

---

**Court No. - 38**

**HON'BLE SIDDHARTH NANDAN, J.**

1. Heard Sri Udit Chandra, Advocate, appearing on behalf of the petitioner; Ms. Anjali Upadhya, learned counsel for respondent No. 5; and the learned Standing Counsel for respondent Nos. 1 to 4.

2. The present writ petition has been filed, assailing the order dated 08.04.2026 passed by the District Inspector of Schools (D.I.O.S.), Gautam Budh Nagar, by which the Managers/Principals of all aided and unaided institutions have been directed to provide a list of their teaching and non-teaching staff for the purposes of census duty.

3. While relying upon the provisions of Section 4A of the Census Act, 1948, (hereinafter referred to as the Act, 1948) the counsel for the petitioner has submitted, that the staff of the Institution is not covered under the definition of 'Local Authority.' For ready reference, Section 4A of the Act, 1948 (as amended in 1994 by Act No. 11 of 1994) is reproduced below:

*"4A. Every local authority in a State shall, when so directed by a written order by the Central Government or by an authority appointed by that Government in this behalf, make available to any Director of Census Operations such staff as may be necessary for the performance of any duties in connection with the taking of census."*

4. He has vehemently urged that a private college is neither a local authority, nor a State Government office, nor a subsidiary company set up by the State Government. He has also drawn a corollary from Section 159

of the Representation of the People Act, 1951 (hereinafter referred to as the Act, 1951), to contend that the teachers of private aided or unaided colleges are excluded from the purview of a local authority. Accordingly, it is not possible to hold teachers working in aided or unaided colleges liable for requisition for duties prescribed under the Census Act, 1948.

5. He has further submitted that even by the letter dated 01.04.2026, written by the Additional District Magistrate to the B.S.A., D.I.O.S., and District Panchayat Raj Officer, the Additional District Magistrate had only requested for providing a list of employees who were appointed and available in their offices. However, the D.I.O.S., vide its letter dated 08.04.2026, has also sought a list of teaching and non-teaching staff from unaided institutions, which is against the letter and spirit of Section 4A of the Census Act, 1948.

6. He has further pointed out that, in the letter dated 29.04.2026 written by Respondent No. 5, who is the charge officer, to the District Basic Education Officer and D.I.O.S., Gautam Budh Nagar, it was highlighted that the individuals listed for training did not attend the training, and, therefore, necessary action would be taken against them.

7. He has also submitted that, under compelling circumstances, the members of the Association have forwarded their list, which forms part of the letter dated 29.04.2026, and that coercive action is now being contemplated.

8. He has further submitted that, a similar issue has also been dealt with by the High Court of Judicature at Bombay, Nagpur Bench, in **Writ Petition No. 3612 of 2026, *The Sikh Education Society, Nagpur vs. Union of India and Others***. While interpreting the provisions of Section 4A of the Census Act, 1948, and relying upon the decision of the Apex Court in ***Election Commission of India vs. State Bank of India Staff Association, Local Head Office Unit, Patna and Others***, reported in **1995 Supplementary (2) SCC 13**, the Apex Court concluded that, although the Constitution makers did not explicitly mention the Union or the State Government but only the President or Governor, it is obvious that they would have to act consistently with Articles 74(1) and 163(1) of

the Constitution of India. Accordingly, government servants who are appointed to public service and posts under the Central or State Government are required to be made available for the purposes of elections, and local authorities are also contemplated to be made available. For this reason, Section 159 of the Representation of the People Act, 1951 provides that, upon request from the Regional Commissioner or the Chief Electoral Officer of the State, the Local Authority of the State shall make available to any Returning Officer such staff as may be necessary to carry out duties in connection with elections.

9. On the basis of the aforesaid ratio, he has submitted that, similarly, only the Local Authority of the State is contemplated under Section 4A of the Census Act, 1948, and that unaided institutions cannot be considered to fall within the purview of a 'local authority.' He has also relied upon the decision dated 05.02.2019 in Special Appeal No. 244 of 2019, passed by the Division Bench of this Court, wherein Section 7C of the Act, 1948 was examined. It was held that the Act empowers the District Magistrate to call upon all officers and members of the staff of any factory, firm, or establishment to render assistance for taking a census of the persons present in the premises at the time of the census. However, such assistance is limited to the officers and staff of the respective establishment and does not extend beyond the premises of that establishment.

10. He has further submitted that, under Section 4A of the Act, 1948, the State Government can only seek the assistance of the staff of Local Authorities.

11. Per contra, learned Standing Counsel has submitted that Section 4 of the Census Act, 1948, provides that the State Government may appoint a person as a Census Officer for carrying out the census within any specified local area, and such person, when so appointed, shall be bound to serve. Further, Sub-section (4) of Section 4 of the Act, 1948, provides that the State Government may delegate to such authority as it thinks fit the power of appointing a Census Officer conferred by Sub-section (2).

12. He has further submitted that Section 27 of the Right of Children to

Free and Compulsory Education Act, 2009 provides for teachers to be deployed for decennial population census and the same would be applicable to the extent of primary teachers i.e. teachers teaching from 1st to 8th standard, imparting elementary education. For ready reference Section 27 of the Right of Children to Free and Compulsory Education Act, 2009 is reproduced herein below:-

*"27. Prohibition of deployment of teachers for non-educational purposes-No teacher shall be deployed for any non-educational purposes other than the decennial population census, disaster relief duties or duties relating to elections to the local authority or the State Legislature or Parliament, as the case may be."*

13. In rejoinder, counsel for the petitioner submits that the Charge Officer is at Greater Noida, District Gautam Budh Nagar, and, as evident from the letter dated 01.04.2026, it is the Additional District Magistrate, Gautam Budh Nagar, i.e., Respondent No. 4, who wrote the letter requesting the local authorities namely, the B.S.A., D.I.O.S., and the D.P.R.O. to provide the staff. Accordingly, it is not within the authority of the B.S.A., nor is the B.S.A. a delegated authority, to seek the staff of unaided institutions; therefore, the benefit of Sub-section (4) of Section 4 of the Act, 1948, cannot be extended to the B.S.A. in a delegated capacity, whereas the applicability of Section 27 of the Act, 2009 is concerned the same is applicable on the Government Teachers and not on the teachers who are working in a private Institution; and accordingly the B.S.A. did not have any authority to seek a list of teaching and non-teaching staff from the private Institutions.

14. He has further placed reliance on the judgement of **Surya Pratap Singh Vs. State of U.P. and 7 others** reported in **2025 (2) ADJ 351** wherein it has been stated that even for the Government Teachers, minimal deployment should be made and preferably during holidays and non-teaching hours to avoid loss of academic work.

15. In view of the aforesaid, this Court prima facie finds that the teaching and non-teaching staff of private institutions, whether aided or unaided, cannot be said to fall within the purview of 'local authorities,' i.e., the B.S.A., D.I.O.S., and the D.P.R.O., who alone are required to provide

their staff, as also contemplated in the letter dated 01.04.2026. Further, in view of the list forwarded by the B.S.A. to the Charge Officer pursuant to his letter dated 08.04.2026, the employees of aided and unaided institutions cannot be made liable for any task under the Census Act, 1948.

16. The respondents are directed to file their counter-affidavits within a period of four weeks. Thereafter, two weeks' time is granted to the learned counsel for the petitioner for filing a rejoinder affidavit.

17. List thereafter.

18. In view of the aforesaid, until further orders of this Court, the orders dated 08.04.2026 and 29.04.2026 shall be kept in abeyance.

**(Siddharth Nandan,J.)**

**May 21, 2026**  
piyush