



2026:AHC-LKO:21774

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 3258 of 2026

Smt. Keerti Awasthi

.....Petitioner(s)

Versus

State Of U.P. Thru. Secy. Basic Education Lko. And
5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ramesh Gupta
Counsel for Respondent(s)	:	C.S.C., Uday Veer Singh

Court No. - 18

HON'BLE KARUNESH SINGH PAWAR, J.

1. Heard Mr. Upendra Kumar Sagar, learned counsel for petitioner and learned State Counsel for respondents.
2. The instant petition has been filed challenging the order dated 28.2.2026, whereby, the petitioner's application for grant of second maternity leave for a period of 180 days has been rejected. Further prayer for issuing a direction to the respondents to grant maternity leave to the petitioner from 2.2.2026 till 31.7.2026 with full salary and other emoluments has also been sought.
3. Contention of the learned counsel for petitioner is that the impugned order has been passed rejecting the petitioner's application on the ground that the second maternity leave cannot be granted, until and unless, there is a time lapse of at least two years after the first maternity leave.
4. It is further contended that the aforesaid issue is no longer res integra and has already been considered and conclusively decided by this Court in *Smt. Satakshi Mishra vs. State of U.P. & Ors.*, Writ-A No. 5114 of 2022. In the said judgment, this Court, while examining the interplay between the provisions of the Maternity Benefit Act, 1961 and the Financial Handbook, has held as under:

25. (1) The Maternity Benefits Act, 1961 has been enacted by the Parliament in exercise of powers under Entry 24 in List III of the Seventh Schedule of the Constitution of India and to secure the goals stated in Articles 38, 39, 42 and 43 of the Constitution of India and also to give effect to the provisions contained in Article

15 (3) of the Constitution.

(2) *The provision of Financial Handbook are pre-Constitutional executive instructions and would be subsidiary to the Act of Parliament and in case of any inconsistency, the statutory enactment framed by the Parliament would prevail and hence the provisions of Maternity Benefits Act, 1961 would prevail over the provisions of Financial Handbook and, therefore, provision of Rule 153 (1) of the Financial Handbook Volume I to IV are read down with regard to admissibility of leave to a woman with regard to second pregnancy which would be governed by Maternity Benefits Act, 1961 and not Rule 153 (1) of the Financial Handbook Volume II to IV.*

(3) *The State Government already having adopted the provisions of Maternity Benefits Act, 1961 as per Government Order dated 11.4.2011, as recorded by this Court in the case of Anshu Rani Vs. State of U.P. passed in Writ A No.3486 of 2019, makes it abundantly clear that the provisions of Maternity Benefits Act, 1961 would prevail over any other law.*

5. The aforesaid judgment thus unequivocally lays down that the provisions of the Maternity Benefit Act, 1961 (hereinafter referred to as “the Act, 1961”) shall prevail over the provisions of the Financial Handbook, particularly Rule 153(1) of Volumes I to IV. Once the State Government has itself adopted the Act, 1961 through Government Order dated 11.04.2011, the authorities are bound to act in conformity with the said statutory framework. Any reliance upon the contrary provisions of the Financial Handbook to deny maternity leave, especially in the case of a second pregnancy, is legally unsustainable and contrary to the settled position of law as reiterated by this Court in the aforesaid judgments, including in **Anshu Rani vs. State of U.P.** (Writ A No.3486 of 2019).

6. It is disheartening to know that despite various judgements passed on the aforesaid aspect, the authorities are repeatedly rejecting the second maternity leave application, still relying upon provisions of the financial handbook without examining the aspect that the Act, 1961 would prevail over the financial handbook.

7. Keeping in view the above fact that the aforesaid aspect has already been

considered and adjudicated by this Court as indicated hereinabove, the impugned order dated 28.2.2026 is hereby quashed by issuing a writ in the nature of certiorari with the direction to the respondents to pass appropriate order within a period of one week, from the date the certified copy of this order is produced before him, sanctioning the second maternity leave to the petitioner w.e.f. 2.2.2026 till 31.7.2026.

8. Respondents are also warned to be careful in future while rejecting such applications since such rejection can be contemptuous in nature.

9. In view thereof, writ petition succeeds and is allowed at the admission stage itself.

10. Parties to bear their own costs.

March 26, 2026
Madhu J.R/P.S

(Karunesh Singh Pawar,J.)