

Court No. - 10

Case :- WRIT - C No. - 17535 of 2023

Petitioner :- Param Singh

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Azim Ahmad Kazmi

Counsel for Respondent :- C.S.C., Hari Narayan Singh, Prabhakar Awasthi

Hon'ble Kshitij Shailendra, J.

1. Rejoinder affidavit filed today is taken on record.
2. Heard Shri Rahul Jain, learned counsel holding brief of Shri Azim Ahmad Kazmi, learned counsel for the petitioner, Shri I.P. Srivastava, learned Additional Chief Standing Counsel for the State-respondents, Shri Prabhakar Awasthi for respondent no.4 and perused the record.
3. Admittedly, the petitioner is posted as Principal of Smt. Sukhdevi Inter College, Hasanpur, Amroha and has filed the present writ petition seeking a Writ of Mandamus commanding the District Inspector of Schools, Amroha (respondent no.2) to take all necessary and suitable steps by passing compelling orders for retrieval/recovery of important college records from unauthorised custody of the erstwhile manager and to place them in secure and safe custody in the college premises, and in the event of their unavailability/loss, to initiate legal action against the erstwhile manager for deliberately removing the files/records from college premises and for having retained them in personal custody without authority, in terms for the directions issued by the Joint Director of Education, Moradabad through letter dated 14.09.2022.

4. Various affidavits have been filed pursuant to order issued on earlier occasions.

5. It is contended by Shri Rahul Jain that the respondent no.4 happened to be a Manager of the Committee of Management of the Institution but since 16.02.2022, the Authorized Controller is continuing in the Institution. The grievance raised by the petitioner is that whereas the District Inspector of Schools is compelling the petitioner to upload certain data on the 'Manav Sampada Portal', more specifically by office order dated 26.04.2023, which also contains a threat that in the event of non-compliance of the said order, action shall be taken against the Principal which includes stoppage of petitioner's salary, the petitioner is unable to upload the requisite data for the simple reason that the concerned documents have been taken away by the respondent no.4 and, despite various applications moved by the petitioner before the State and District Authorities, no action is being taken against the respondent no.4 for returning the said documents. He further submits that at one point of time, services of the petitioner were suspended by the Committee of Management, however, the suspension order was disapproved and, thereafter, the services of the petitioner were terminated but the said proposal was turned down by the Services Selection Board. He has referred to the order dated 29.08.2019 whereby the Selection Board has disapproved the termination order by recording a finding in favour of the petitioner that he was not guilty of the charges levelled against him. The emphasis of Shri Jain is on that portion of the said order, wherein the finding was recorded by the Board that documents are in custody of the respondent no.4. He has also referred to an order dated 17.03.2020 passed by this Court dismissing Writ A No.3376 of 2020 (C/M Smt. Sukhdevi Inter College And Another v. State of

U.P. And 3 Others) taking note of the order of Selection Board and declining the prayer made by the Committee of Management with respect of handing over service book, character roll and personal file of the Principal of the Institution, i.e the petitioner. He further submits that neither any F.I.R. has been lodged against respondent no.4 nor the Authorities are taking action against him.

6. Shri I.P. Srivastava, learned Additional Chief Standing Counsel, by referring to the counter affidavit filed by the Authorized Controller, submits that it is the personal dispute between the erstwhile Manager and the Principal of the Institution and the Authorities have already proceeded with the matter. Reference to certain criminal proceedings has also been made. Infact these criminal proceedings are against the petitioner pursuant to the F.I.R. lodged.

7. Shri Prabhakar Awasthi submits that respondent no.4 is not in power and, hence there is no law which can compel the District Inspector of Schools to take action against him. He further submits that the Principal himself is guilty of embezzlement and abusing his power as a public servant and, therefore, F.I.R. was lodged under the relevant provisions of law and the matter is subjudice before criminal court. Various other submissions have also been made and the allegation of taking away the documents from the Institution has been denied by Shri Awasthi with an additional submission that at the time when Authorized Controller takes charge, he takes complete charge of the Institution and not in piecemeal and, therefore, it cannot be accepted that partial charge was taken over by the Authorized Controller leaving aside certain documents which are allegedly in custody of respondent no.4.

8. Having heard the learned counsel for the parties and after

considering the allegations and counter-allegations, the difficulty of the petitioner insofar as the compliance of office order dated 26.04.2023 issued by D.I.O.S. is concerned, appears to have some significance. Therefore, if the petitioner is facing some difficulty in ensuring compliance of the said order of District Inspector of Schools, this Court cannot compel the petitioner to perform an impossible task. Therefore, the petitioner is at liberty to submit a detailed response before the District Inspector of Schools in relation to the order dated 26.04.2023 establishing the difficulties, if any, in uploading the requisite data and the District Inspector of Schools shall consider the same in case he proposes to pass any order in that regard.

9. As regards mandamus sought by the petitioner, since Educational Authorities as well as Police Authorities and also court of competent criminal jurisdiction are already seized up with the matter and there are various inter and intra-departmental exchange of communications, the law will take its own recourse. In the peculiar facts and circumstances of the case, issuance of Writ of Mandamus in either way would certainly prejudice the proceedings pending at the departmental level or before any Court of competent jurisdiction.

10. The writ petition stands **disposed off** in terms of the permission granted to the petitioner as aforesaid and it is expected that the Authorities would conclude the matter pending before them.

Order Date :- 23.11.2023
Jyotsana