

Court No. - 35

Case :- WRIT - A No. - 9990 of 2021

Petitioner :- Vishal Kumar Chaubey And Another

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

Counsel for Petitioner :- J.P.N. Singh

Counsel for Respondent :- C.S.C.,Gopal Ji Rai

with

Case :- WRIT - A No. - 16938 of 2023

Petitioner :- Sri Gandhi Mahavidyalay Malay Nagar And Another

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

Counsel for Petitioner :- Santosh Kumar Singh

Counsel for Respondent :- CSC

Hon'ble Vikas Budhwar,J.

1. Heard Shri J.P.N. Singh, learned counsel for the writ petitioners who are two in number in the leading writ petition, Shri Santosh Kumar who appears for the writ petitioners in the connected writ petition as well as Shri Santosh Kumar Mishra, learned Standing Counsel who appears for respondent Nos. 1 to 3 in the leading writ petition and respondent No. 1 to 4 in the connected writ petition as well as Shri Santosh Kumar who appears for the respondent No. 4 in the leading writ petition, Shri Gopal Ji Rao, learned counsel for respondent no. 4 in the connected writ petition.

2. Since common question of facts and law are involved in Writ A No. 9990 of 2023 Vishal Kumar Chaubey And Others Vs. State Of U.P. And Others (in short 'leading writ petition') and Writ A No. 16938 of 2023 Sri Gandhi Mahavidyalay Malay Nagar And Another Vs. State Of U.P. And 3 Others (in short 'connected writ petition'), thus, with the consent of the parties the writ petition is

being consolidated and decided by a composite order.

3. A joint statement has been made by learned counsel for the writ petitioners that they do not propose to file any further affidavits in both the writ petitions, thus they are being decided at the fresh stage.

4. The case of the writ petitioners who are two in number in the leading writ petition is that there happens to be a committee of management, Shri Gandhi Mahavidyalay, Malay Nagar Malap, Ballia which is an institution recognised under the provisions of the U.P. Intermediate Education Act, 1921 and the provisions of U.P. Act No. 24 of 1971 stands applicable.

5. It is the case of the writ petitioners that pursuant to the exercise undertaken in the light of the orders passed in Writ A No. 26307 of 2010 (Dhruv Narain Singh Vs. State of U.P. and others) and exercise was undertaken pursuant whereto, according to the writ petitioners in both the writ petitions, there happens to be sanctioned post of one, principal, 9 posts of lecturer, 16 posts of Assistant teachers, one post of head clerk, 3 posts of clerk and 14 posts of Class-IV employee, totalling to 44 post. As per the writ petitioners, though permission was sought on 06.11.2009 from the District Inspector of Schools for making selections but as the same could not be granted which resulted the fact that the advertisement was published in two newspapers on 24.11.2019 for making selections on the two posts of Class-IV employee. The writ petitioners' claims to have been selected on the post of Peon and on the basis of the recommendation, they are accorded appointment order on 31.12.2009 and they take charge on 04.01.2010.

6. Prayer in both the writ petitions is for a direction to the District

Inspector of Schools, District Ballia to accord consideration to the claim of the writ petitioners approving their appointments. Initially, the leading writ petition was preferred by the two selectees which were entertained by this Court on 12.08.2021 while issuing notices and there is a service report that till notice is confirmed.

7. In sequel of the same, the committee of management through which principal has filed the connected writ petition seeking mandamus to the District Inspector of Schools, Ballia to pay salary to the selected candidates namely the writ petitioners two in number in the leading writ petition. On presentation of the said writ petition, the same was tagged with the connected writ petition. Learned counsel for the writ petitioners have sought to argue that though one Shri Vishal Kumar Chaubey and Shri Vivek Singh have been selected but approval whereof has not been granted by the District Inspector of Schools for the payment of salary and appointment. Thus, it is prayed that three respondents may take appropriate action in that regard. Shri Santosh Kumar Mishra who appears for the official respondents and the counsels appearing for the principal submits that the issue as to whether that the matter needs to be decided at the first instance by the District Inspector of Schools, Ballia. They submit that they do not propose to file any response, however, according to them, a direction be issued to the District Inspector of Schools, Ballia to consider the claim. To such a submission, learned counsel for the writ petitioners in both the writ petitions have no objection.

8. Considering the submission of the rival parties as well as stand taken by them, the writ petition is being **disposed of**, granting liberty to the writ petitioners in both the writ petitions to prefer

comprehensive representation along with the self attested copy of the writ petition before the District Inspector of Schools, Ballia who shall on the receipt of the same after hearing respective parties shall decide the claim of the writ petitioners within a period of three months from the date of the production of the certified copy of this order, bearing in mind the issue with regard to total number of sanctioned strengths vacancies, approval, if any (claimed by the writ petitioners for making selections), the selection criteria, adherence to the rules continuance of the writ petitioners as well as ancillary and accidental issues including of-course, the issue with regard to the delay with regard to the date on which the selections were conducted and raising of the claim by means of the present writ petition.

9. Needless to point out that the passing of the order may not construed to be an expression, thus this Court has not adjudicated on the merits of the matter.

10. With the aforesaid observation, the leading as well as the connected writ petitions stands **disposed of**.

Order Date :- 19.10.2023

A. Prajapati