

Court No. - 36

Case :- WRIT - A No. - 11628 of 2023

Petitioner :- Smt.Sujeeta

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

Counsel for Petitioner :- Shailesh Kumar Shukla,Mohd Shere Ali

Counsel for Respondent :- C.S.C.

Hon'ble Manjive Shukla,J.

1. Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the Respondents No. 1, 2 and 3.

2. In view of the proposed order, notice to Respondent No. 4 is dispensed with.

3. Facts of the case, in brief, are that Siddharth Poorva Madhyamik Vidyalaya, Pipra Rasoolpur, District Maharajganj is recognized by the U.P. Basic Education Board and is receiving grant-in-aid from the Government of U.P. Terms and Conditions of the teachers working in the aforesaid institution are governed by the provisions of The Uttar Pradesh Recognised Basic Schools (Junior High Schools) (Recruitment and Conditions of Service of Teachers) Rules, 1978 (hereinafter referred to as "Rules of 1978").

4. Manager of the Committee of Management of the institution vide letter dated 09.08.2011 sought permission from the District Basic Education Officer, Maharajganj for making selection for appointment on eight posts i.e. four posts of Unreserved Category, two posts of O.B.C. Category and two posts of Scheduled Caste Category. The District Basic Education Officer, Maharajganj vide order dated 24.08.2011 granted permission for the aforesaid selection. Pursuant to the permission granted by the District Basic Education Officer, Maharajganj advertisement was published in two Newspapers i.e. "Aaj" and "Swatantra Chetna" on 31.08.2011. The District Basic Education Officer, Maharajganj also provided his nominee to be part of Selection Committee for the aforesaid selection and in presence of the nominee, Selection Committee concluded the selection and prepared a select list in which name of the petitioner was recommended for appointment against the post of Assistant Teacher belonging to Scheduled Caste category. Selection Committee along with the name of the petitioner also recommended names of Sri Jeet Lal Srivastava, Sri Vipin Kumar,

Sri Santosh Singh, Smt. Deepti Srivastava against unreserved posts, names of Sri Sarvesh Kumar Yadav & Smt. Maya Yadav against vacancies of O.B.C. category and names of petitioner as well as Sri Ravi Shankar Bharti against vacancies of Scheduled Caste Category. Committee of Management of the institution duly forwarded the papers of the aforesaid selected candidates to the District Basic Education Officer, Maharajganj and sought approval of the aforesaid selection but the matter remained pending at the end of the District Basic Education Officer, Maharajganj.

5. Learned counsel appearing for the petitioner has submitted that since no decision was taken by the District Basic Education Officer, Maharajganj in respect of the approval of the aforesaid selection, therefore, as per Rule 10(5)(iii) of the Rules of 1978, selection of the petitioner is to be considered as 'deemed approved'. Learned counsel appearing for the petitioner has invited attention of this court towards the fact that Mr. Santosh Kumar Singh and Smt. Maya Yadav, whose names were recommended in the same selection in which petitioner's name has been recommended, filed Writ-A No. 5544 of 2019 and Writ-A No. 7142 of 2020 which have finally been allowed vide judgement and order dated 03.01.2023 and in compliance of the said judgement, Mr. Santosh Kumar Singh and Smt. Maya Yadav are being paid salary by the respondents.

6. Learned counsel appearing for the petitioner has submitted that since the candidates selected in the same selection in which petitioner has been selected, are being paid salary continuously, therefore, petitioner is also entitled to be dealt with the same yardstick as has been done by this court in the aforesaid writ petitions.

7. Learned counsel appearing for the petitioner has further made a prayer that petitioner's case may also be considered by the District Basic Education Officer, Maharajganj in light of the judgement and order dated 03.01.2023 passed by this court in Writ-A No. 5544 of 2019 and Writ-A No. 7142 of 2020.

8. This court after hearing this writ petition passed an order on 11.08.2023 whereby learned Standing Counsel was granted time to take instructions in the matter and in compliance of the said order, learned Standing Counsel has produced before this court instructions provided by the District Basic Education Officer, Maharajganj vide letter dated 9.10.2022 wherein certain issues in respect of the selection of the petitioner have been raised but there is no reply to the fact that candidates of the same selection have

already been granted salary in compliance of the aforesaid judgement and order dated 03.01.2023 passed by this court.

9. At the last, learned Standing Counsel has very fairly submitted that since there is a judgement passed by this court in the matter of identically placed persons, therefore, it would be in the interest of justice if this court issues a direction to the District Basic Education Officer, Maharajganj to consider petitioner's case in light of the aforesaid judgement and order dated 03.01.2023 passed by this court in Writ-A No. 5544 of 2019 and Writ-A No. 7142 of 2020.

10. In view of the aforesaid submissions advanced by the learned counsels appearing for the petitioner, this writ petition is finally ***disposed of*** with liberty to the petitioner to file a comprehensive representation before the District Basic Education Officer, Maharajganj within 15 days from today and if such a representation is filed, the District Basic Education Officer, Maharajganj is directed to consider and decide the said representation in light of the judgement and order dated 03.01.2023 passed in Writ-A No. 5544 of 2019 and Writ-A No. 7142 of 2020 within a period of two months thereafter.

Order Date :- 13.10.2023

A. Mandhani