

Court No. - 35

Case :- WRIT - A No. - 12787 of 2023

Petitioner :- Smt. Neetu Singhal

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Sankalp Narain, Srivats Narain

Counsel for Respondent :- C.S.C., Aalok Singh, Bheem Singh, Krishna Kumar Chand

Hon'ble Vikas Budhwar, J.

Since common question of laws and facts are involved in both the writ petitions, thus, they are being decided by a common/composite order, for the sake of brevity, the Writ Petition No. 12787 of 2023 (Smt. Neetu Singhal Vs. State of U.P. & 4 Others) is treated as leading writ petition and Writ Petition No. 17754 (C/M O.P.M. Inter College Vs. State of U.P. & 4 Others) is treated as connected writ petition and the counsel for the rival parties do not propose to file any affidavits, thus, with their consent the writ petition is being decided at the fresh stage.

The case of the writ petitioner in both the writ petitions is that the leading writ petition has been preferred by Smt. Neetu Singhal who was appointed as an Officiating Principal, however, owing to certain acts and omissions one Sri Anup Kumar Verma who has been impleaded as respondents in both writ petitions was placed under suspension. Pursuant to the resolution dated 17.02.2022 of the Committee of Management of the institution in question and the writ petitioner was made Officiating Principal signature whereof was attested on 02.04.2022. A charge sheet is stated to have been to Sri Anup Kumar Verma on 21.02.2022 containing 7 charges. Inquiry Officer was also appointed. It is also come on record that the inquiry committee tendered his inquiry report dated 08.03.2022 holding the charges to be proved against Sri Anup Kumar Verma and a resolution has been passed on 09.04.2022 for dispensation of the services of Sri Anup Kumar Verma and the papers were transmitted to the District Inspector of Schools, Aligarh for being forwarded to the Board in terms of Section 21 of U.P. Act No. 5 of 1982 since nothing was done so the Committee of Management preferred Writ Petition No. 8381 of 2022 whereby the following orders were passed.-

"1. Heard Sri Sankalp Narain, learned counsel for the petitioner; Sri Bheem

Singh, learned counsel appearing for respondent no.4 and learned Standing Counsel for the State-respondents.

2. Challenge has been raised to the communication dated 28.04.2022 passed by the DIOS, Aligarh, whereby the said respondent has returned to the petitioner Committee of Management the proposal made by the latter regarding termination of service of private respondent no.4.

3. Short submission advanced by learned counsel for the petitioner merits acceptance is, the DIOS had no jurisdiction or occasion to return the proposal made to him as he was only required to consider the same and forward it to the Board with his note of approval or disapproval as the case may be. The jurisdiction to consider the proposal on merit, vests solely with the Board. The DIOS had no jurisdiction to return the proposal made to him.

4. While the above submission is not disputed by learned counsel appearing for the private respondent, he would submit, in the garb of the proposal made, the respondents have restrained the functioning of the petitioner as officiating Principal.

5. Inasmuch as the DIOS could not have returned the proposal to the Committee of Management and further inasmuch as he was obligated in law to forward the same to the Board, the impugned communication cannot be sustained.

6. In view of such fact, no useful purpose would be served in keeping the present petition pending or calling for a counter affidavit, at this stage.

7. Accordingly, the impugned communication dated 28.04.2022 is set aside. The matter is remitted to the DIOS, Aligarh to act in conformance with law, keeping in mind the observations made above. That exercise may be completed, as expeditiously as possible, preferably within a period of one month from the date of communication of this order before the said respondent after hearing necessary parties.

8. Insofar as the competing claim has been made by the private respondent, the same cannot be considered in view of the proceedings arising at the instance of the Committee of Management.

9. Leaving it open to the respondents to pursue his legal remedy with respect to the claim being made, no further direction is required to be issued in this proceeding.

10. With the aforesaid observation, present writ petition is disposed of."

In the meantime, proceedings were also drawn for cancellation of the appointment of Sri Anup Kumar Verma which had challenged in Writ Petition No. 11038 of 2022 in which the order dated 14.07.2022 was stayed on 05.08.2022. The learned counsel for the writ petitioner, Smt. Neetu Singhal and the Committee of Management have made a statement at Bar that insofar as the challenge made to the order dated 29.05.2023 passed by the Authorized Controller O.P.M. Inter College Khair, Aligarh

whereby Sri Anup Kumar Verma had been made the senior most Assistant Teacher is not pressed, he submits that since now with the enactment of U.P. Act No. 15 of 2023 the provisions of the U.P. Act No. 5 of 1982 stands repealed, thus, the issue with regard to proposal of the Committee of Management for granting approval with regard to the dispensation of the service of Sri Anup Kumar Verma be directed to be concluded within the time specified by this Court. He submits that earlier it was the Board under Section 21 of the U.P. Act No. 5 of 1982 to accord approval but now the District Inspector of Schools, Aligarh is the Competent Authority to accord approval, thus, a direction be issued to the District Inspector of Schools, Aligarh to take appropriate decision.

Sri Bheem Singh, learned counsel who appears for Sri Arun Kumar Verma submits that he has no objection to the same, however, his continuance may not be disturbed in this regard.

Sri Shailandra Singh, learned Standing Counsel who appears for the respondents submits that in the wake of the enactment of the U.P. Act No. 15 of 2023 now it is the District Inspector of Schools, Aligarh who has to take decision with regard to the proposal of the Committee of Management regarding dispensation of the services of Sri Anup Kumar Verma is stated to be pending for consideration.

Considering the submission of the rival parties as well as the stand taken by them, the interference to the orders dated 29.05.2023 of the Authorized Controller and the consequential order of the District Inspector of Schools, Aligarh are declined. The writ petitioner is granted liberty to approach the District Inspector of Schools, Aligarh while filing a comprehensive representation along with the self attested copy of the writ petition before the District Inspector of Schools, Aligarh who shall on the receipt of the same take follow up action after summoning the file if it available with other authority regarding proposal/resolution of the Committee of Management for dispensation of the services of Sri Anup Kumar Verma and thereafter decide the same within a period of two months from the receipt of the certified copy of the order. The said exercise is to be undertaken after giving opportunity to the writ petitioner, Committee of Management as well as Sri Anup Kumar Verma strictly in accordance with law.

Order Date :- 22.11.2023

Rajesh