

Court No. - 36

Case :- WRIT - A No. - 13067 of 2023

Petitioner :- Ayasha Afreen

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Brij Kishore Pandey

Counsel for Respondent :- C.S.C.,Pranav Mishra

Hon'ble Manjive Shukla,J.

1. Heard learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondents No.1, 2 and 4 as well as Sri Pranav Mishra, learned counsel appearing for the Respondent No.3.

2. Petitioner has filed this writ petition for a direction from this court thereby commanding the Respondent No.5 to consider the case of the petitioner and appoint her on the post of Clerk in Madarsa Mataul Uloom Nishwan Jainpur, Varanasi.

3. This court considered this matter and passed a detailed order on 6.10.2023, which is extracted as under:-

"1. Heard learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondents No. 1, 2 and 4 as well as Mr. Pranav Mishra, learned counsel appearing for the Respondent No. 3.

2. This Court vide order dated 10.08.2023 issued notice to Respondent No. 5 i.e. Manager/Principal, Madarsa Mataul Uloom Nishwan Jainpur, Varanasi, U.P. The notice has been duly served to Respondent No. 5 but nobody has turned up on his behalf. Thereafter this matter was heard by this court on 23.08.2023 and the following order was passed:

"1. Heard Mr. Brij Kishore Pandey, learned counsel appearing for the petitioner and learned Standing Counsel appearing for the Respondents No. 1, 2 & 4 as well as Mr. Pranav Mishra, learned counsel appearing for the Respondent No. 3.

2. This court vide order dated 10.08.2023 issued notice to Respondent No.5 and 'Dasti' notice was provided to learned counsel appearing for the petitioner for service on Respondent No.5.

3. Petitioner today has filed an affidavit of service wherein it has been stated that notice of this writ petition has been served to Respondent No.5.

4. Facts of the case in brief are that the mother of the petitioner Smt. Rukhsana Begam while working on the post of Assistant Teacher Tahtania in Madarsa Mataul Uloom Nishwan Jainpur, Varanasi died in harness on 19.04.2021. Petitioner after the death of her mother has submitted application for compassionate appointment.

5. Learned counsel appearing for the petitioner has argued that though petitioner has submitted application for compassionate appointment but due to inaction on the part of Respondent No. 5, till date compassionate appointment has not been offered to the

petitioner.

6. Learned counsel appearing for the petitioner has invited attention of this court towards letter dated 23.07.2022 written by District Minority Welfare Officer, Varanasi to Manager/Headmaster of Madarsa Mataul Uloom Nishwan Jainpur, Varanasi, whereby District Minority Welfare Officer, Varanasi has issued direction for considering the case of the petitioner for compassionate appointment.

7. Learned counsel appearing for the petitioner has argued that though the aforesaid direction has been issued but Respondent No. 5 is not complying with the said directions and till date case of the petitioner for compassionate appointment has not been considered.

8. This court finds that the District Minority Welfare Officer, Varanasi vide his letter dated 23.07.2022 has issued necessary directions for considering the case of petitioner for compassionate appointment but Respondent No. 5 has not acted upon the said directions.

9. In the aforesaid circumstances, let learned Standing Counsel appearing for the Respondents No. 1, 2 & 4 take instructions from Respondent No. 4 as to when direction issued by him has not been complied with by the Manager/Principal Madarsa Mataul Uloom Nishwan Jainpur, Varanasi then what action has been taken against the responsible authority of the Madarsa in question.

10. List this matter on 29.08.2023 as fresh."

3. Thereafter this matter has been listed on 29.08.2023, 12.09.2023 and 03.10.2023.

4. Today when the matter has been taken up, learned Standing Counsel has produced before this Court instructions provided to him by District Minority Welfare Officer vide his letter dated 04.10.2023 wherein it has been stated that the District Minority Welfare Officer, Varanasi has written a letter on 04.10.2023 and thereby directed Respondent No. 5 to allow the petitioner to join on the post on which she has been appointed as per rules.

5. It is surprising for this court to note that order was passed by this court on 23.08.2023 whereby learned Standing Counsel was directed to take instructions from Respondent No. 4 as to when direction issued by him has not been complied with by Manager/Principal, Madarsa Mataul Uloom Nishwan Jainpur, Varanasi, U.P. then what action has been taken against the responsible authorities of the Madarsa in question but in the instructions, it has been said that only a letter has been written on 04.10.2023.

6. From record, it appears that the Respondent No. 4 is not taking adequate steps to ensure joining of the petitioner on the post on which she has been appointed on compassionate ground.

7. In view of the aforesaid, let District Minority Welfare Officer, Varanasi appear before this court on 13.10.2023 to explain as what are his powers for getting his orders enforced and what steps has been taken by him to ensure the joining of the petitioner in the Madarsa in question.

8. Put up this case on 13.10.2023 as fresh."

4. In compliance of this court's order dated 6.10.2023, Sri Sanjay Kumar Mishra, District Minority Welfare Officer,

Varanasi is present before this court. A compliance affidavit has been filed by Sri Sanjay Kumar Mishra, in which it has been categorically stated that petitioner has been permitted to join on the post of Clerk in the aforesaid Madarsa on 9.10.2023. Sri Sanjay Kumar Mishra, District Minority Welfare Officer, Varanasi has submitted that petitioner pursuant to her appointment has been allowed to join in the Madarsa in question and he will forward the papers regarding financial sanction, to the Registrar, Uttar Pradesh Madarsa Education Board, Lucknow within fifteen days.

5. Sri Pranav Mishra, learned counsel appearing for the Respondent No.3 has submitted that if the District Minority Welfare Officer, Varanasi will furnish the papers within fifteen days, Registrar, Uttar Pradesh Madarsa Education Board, Lucknow will take decision in respect of payment of salary to the petitioner within next two weeks.

6. In view of the aforesaid submissions advanced by the learned counsels appearing for the parties, this writ petition is finally disposed of with direction to the District Minority Welfare Officer, Varanasi to forward the papers in respect of joining of the petitioner, to the Registrar, Uttar Pradesh Madarsa Education Board, Lucknow within fifteen days from today and the Registrar is directed to take decision within two weeks thereafter. After the decision of the Registrar, payment of salary to the petitioner shall be ensured from the date of joining of the petitioner.

Order Date :- 13.10.2023
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