

Court No. - 35

Case :- WRIT - A No. - 14548 of 2023

Petitioner :- Narendra Singh And Another

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

Counsel for Petitioner :- Narendra Kumar Chaturvedi, Arvind Kumar Yadav

Counsel for Respondent :- C.S.C., M.N. Singh

Hon'ble Vikas Budhwar, J.

1. Heard Sri R.K. Ojha, learned Senior Counsel assisted by Sri Narendra Kumar Chaturvedi as well as Sri Arvind Kumar Yadav, learned counsel for the writ petitioner who are two in number, Sri Ratan Deep Mishra, learned Standing Counsel who appears for respondent No. 1 and Sri M.N. Singh, learned counsel who appears for respondents No. 2 and 3.

2. Since counter and rejoinder affidavits have been exchanged between the parties and they do not propose to file any further affidavits, thus, the writ petition is being decided at the fresh stage.

3. The case of the writ petitioners who are two in number is that the U.P. Public Service Commission, Prayagraj, second respondent got published an advertisement No. A-1/E-1 of 2021 dated 05.02.2021 for conducting Combined State/Upper Subordinate Service (PCS) Examination, 2021 for selection of several posts including the post of Principal in Government Intermediate College (for Boys or Girls) last date whereof was 05.03.2021 break up of the posts was given in para 4 of the writ petition, according to the writ petitioners, one of the necessary eligibility criteria was at least 3 years teaching experience in High School and Intermediate classes or classes higher than above from a college or university as established by law in India or recognized by the Government. According to the writ petitioners, they are fully eligible and qualified in all respects and they appear in the selections.

4. Pleadings reveal that the examinations comprised of three tier process, preliminary examination, mains examination and interview. The preliminary examination was held and results of the preliminary examination was declared on 01.12.2021 and 13.12.2021 a notification was issued requiring the candidates who had qualified preliminary examination to fill up their forms for main examination and a clear stipulation was also made that, in case, the compulsory teaching experience certificate was not

annexed duly counter-singed by the Joint Director of Education that the candidature would be canceled, the same was followed by main examination which was conducted on 23.03.2022 to 27.03.2022 and a notification was also issued on 29.03.2022 giving opportunity to eligible candidates to appear in the main examination provisionally on the post of Principal with the condition that they shall furnish three months teaching experience otherwise their candidature would be rejected. The last date of submission of the said certificate was 28.04.2022. The results of the main examination was declared on 12.07.2022 and the interviews was held from 21.07.2022 and 05.08.2022 and the results were declared on 09.10.2022 and in the final results out of the total 292 vacancies which was notified, 243 candidates were found to be suitable as whereas 49 candidates belonging to reserve category could not be accorded placement. It is also the case of the writ petitioners that a list of 49 candidates for the post of Principal were declared provisionally and while inviting attention towards paragraph No. 15 of the writ petition it is further sought to be contended that the 24 candidates were not called for counseling on the date mentioned in the notification which shows that 24 candidates did not possess essential teaching qualification/teaching experience on the date of submission of the application form.

5. Prayer in the present petition as captioned is for a certiorari for quashing of the selection on the post of Principal published by the U.P. Public Service Commission, Prayagraj dated 09.10.2022 and the second prayer is for to re-publish the select list on the basis of the candidates who possess essential qualification/teaching experience and to include the name of the writ petitioners after deleting the name of the candidates who were found to be not suitable.

6. Sri R.K. Ojha, learned Senior Counsel, at this juncture, has made a statement at bar after obtaining instructions from the client that he seeks to forego his relief for quashing of the selection process emanating from the order dated 19.10.2022.

7. Sri Ojha, learned Senior Counsel, while inviting attention towards paragraph No. 16 that the petitioner No. 1 obtained 690 marks and petitioner No. 2 obtained 688 marks despite cut off merit of EWS/General is 695. According to him, in case, the ineligible and unqualified incumbents are weeded out then there would be change in the position in the select list and the writ petitioners probably will get an opportunity of being accorded a birth in the selection process.

8. Sri M.N. Singh, learned counsel who appears for the respondents Commission on the strength of the counter affidavit submits that so far as the allegation made in para 15 of the writ petition that 24 candidates have not been called for counseling shows that candidates did not possess essential qualifications is concerned the same is wholly unfounded as it is being sought to be clarified that the recommendation of the successful candidates for the post of Principal is sent to the State Government only after teaching experience certificate is verified by the competent authority, he submits that there might be substance in the argument of the writ petitioners that there is delay in verification but the Commission does not possess any independent mechanism or machinery to verify the teaching certificate as the same is to be verified from the competent authority that too through the instrumentality, officers and the functionaries of the State and on account of cumbersome process there has been certain delay, he submits that two months time would be self-sufficient for doing the necessary spade work and according to him, in case, after post verification circumstances arise wherein there is a change in the select list and the writ petitioner who are two in number come within the said bracket then they will be accorded benefits in this regard as per law.

9. Sri Ran Deep Kumar Mishra, learned Standing Counsel submits that the selections process has to be given a logical end and it cannot be kept pending for the time immemorial and the State functionaries shall provide full assistance.

10. Sri Ojha, learned Senior Counsel Assisted by Sri Narendra Kumar Chaturvedi as well as Sri Arvind Kumar Yadav, learned counsel for the writ petitioners to the said extent have no objection.

11. Considering the submission of the rival parties as well as the stand taken by them, this Court is of the opinion that the Commission should insist and take positive steps and make an endeavour to get the verification process completed through the State instrumentality within a period of two months from the date of production of certified copy of the order and, in case, there is a change in the merit panel then merit panel/select list and the writ petitioners come within the bracket then their case would be considered in accordance with law within a period of further one month.

Order Date :- 21.11.2023

Rajesh