

Court No. - 40

Case :- WRIT - C No. - 30358 of 2023

Petitioner :- Sapna Singh

Respondent :- Union Of India And 6 Others

Counsel for Petitioner :- Shree Prakash Giri

Counsel for Respondent :- A.S.G.I.,C.S.C.,Gautam Kumar

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner; Sri Gautam Kumar, learned counsel for the Union of India and Sri Ambrish Shukla, learned Additional Chief Standing Counsel for the State-respondent.

2. The present writ petition has been preferred for a direction commanding the Principal, Manyawar Kanshiram Institute of Tourism Management, Chinhat-Malhaur Railway Station Road, Vikalpkhanda-II, Gomti Nagar, Lucknow/respondent no. 6 to issue certificate of Tourist Guide in favour of the petitioner and for a direction commanding the Commissioner of Police, Police Commissionerate, Agra/respondent no. 4 to issue police verification report in favour of petitioner in order to avail the certificate of guide from respondent no. 6.

3. Learned counsel for the petitioner states that so far as Tourist Guide certificate, the controversy is already settled by the Division of this Court in ***Santosh Baghel and others v/s. Union of India and others*** (Civil Misc. Writ Petition No. 28274 of 2012 vide judgment and order dated 7.3.2014 with detailed observations. The relevant directions are reproduced herein under.

"We accordingly dispose off this group of petitions with the following directions:-

a) Ministry of Tourism, Union of India, is directed to frame guidelines within six months for issuance of a licence for a local guide who is proficient in the Hindi language and such other languages as depicted in the Eighth Schedule of the Constitution of India which would cater to the domestic market.

b) Till such time, the guidelines are not framed and licences to a local guide are not issued, all the respondents are restrained from interfering in the working of the petitioners as local guides in the protected monuments, which is declared by or under law made by Parliament to be of national importance.

(c) As and when licences are issued to local guides, steps would be taken by the respondents to ensure that touts, fraudulent, unlicensed guides or any other unauthorised person(s) are not permitted for the purpose of taking the visitors around the protected monuments for a monetary consideration."

4. Learned counsel for the petitioner further submits that in response to the aforesaid mandate, Ministry of Tourism, Government of India framed The Guidelines for the Selection & Grant of License to Local Guides by State Government/UT Administrations on 30.12.2014. The guidelines enumerates the minimum age limit of 18 years and proof of domicile. The process of selection, entrance test, preparation of merit list, counseling, document verification and allotment of training seats and duration of training inputs was also enumerated. Clause 8.1 enumerates Verification of antecedents, which is enumerated herein below.

"8.1 Verification of antecedents:

Prior to issuing of guiding license, the candidates would have to undergo a verification of their antecedents through the Police and any adverse report would lead to immediate disqualification of the candidate."

5. Learned counsel for the petitioner further states that the Indian Institute of Tourism and Travel Management has launched Tourist Facilitator Certificate Programme in which the petitioner has duly participated Online Modules of Basic Course and has been issued certificate regarding the said course and has been declared eligible to register for the IITFC Basic Course End Examination. The said examination is conducted by the respondent no. 6 on 19.10.2022 for Local Level Guide Group-12. The result of which has been published on 11.11.2022 by the respondent no. 6, wherein, name of the petitioner has been shown at Serial No. 45 bearing Enrollment No. 100682 as pass. The copy of the result is appended as Annexure No. 6 to the writ petition. It is contended that in spite of passing out the above said examination, the respondent no. 6 has not issued the license of local guide to the petitioner on account of non submission of police verification report. He submits that one First Information Report dated 19.12.2018 was lodged against the petitioner under Section 135 of Electricity Act 2003, registered as Case Crime No. 125 of 2018. It has been claimed that the said offence is compoundable as per the provisions of section 152 of the Electricity Act, 2003. Reliance has also been placed upon the order dated 26.3.2021 in Application u/s 482 No. 9002 of 2021 (Jyoti And 5 Others v/s. State of U.P. and another), wherein, the charge-sheet no. 01 of 2019 dated 29.06.2019 as well as cognizance order dated 05.10.2019 arising out of case crime no. 125 of 2018 and proceedings of Special Trial No. 4370 of 2019 (State Vs. Jyoti and others), under Sections 323, 147, 336, 354, 353, 427 IPC and Section 135 Electricity Act, 2003, P.S.-Mantola, District Agra pending in the Court of Special Judge (E.C. Act), Agra, were challenged and learned Single Judge of this Court has accorded reprieve to the petitioner. Learned counsel for the petitioner states that even though the said proceeding is pending for consideration but the Character and antecedents are to be seen in the light of judgment passed by the Apex Court in ***Union of India and others v/s. Amit Singh*** (2018)1 Supreme Court Cases 293, wherein, Hon'ble Apex Court relying upon ***Avtar Singh v. Union of India*** (2016) 8 SCC 471 has disposed of the appeal setting aside the impugned judgment. The relevant para 38.4.1 in Avtar Singh (supra) is reproduced herein

under.

"38.4.1. In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse."

6. In this backdrop, learned counsel for the petitioner states that the crime in question committed by the petitioner is very minor offence, even which is compoundable under the Electricity Act, 2003. It has also been pressed that there is no other criminal antecedents against the petitioner except the aforesaid case and as such, the direction may be issued to the Commissioner of Police, Police Commissionerate, Agra/respondent no. 4 to issue police verification report in the light of aforesaid dictum.

7. Learned Additional Chief Standing Counsel fairly states that in case any such application is pending consideration before the respondent no. 4, definitely, the same would be processed expeditiously as per law.

8. Considering the facts and circumstances of the case, once it is brought on record so far as the criminal proceeding, the reprieve is already accorded by learned Single Judge. Even though we are also conscious that the proceeding u/s 135 of the Electricity Act, 2003 is compoundable u/s 152 of the Electricity Act, 2003. Learned counsel for the petitioner also makes a statement at Bar that the petitioner is depositing electricity bill thereafter.

9. In view of the above, we deem it appropriate that character and antecedents are to be seen in the light of judgment referred to above and in particular para **38.4.1.** of the judgment in **Avtar Singh** (supra). Accordingly, we direct the respondent no. 4 to take a final call in the matter expeditiously and preferably within a period of four weeks from the date of production of a certified copy of this order.

10. With the aforesaid observations and direction, the writ petition stands **disposed of**.

Order Date :- 2.11.2023

A.K.Srivastava