

Court No. - 36

Case :- WRIT - A No. - 14782 of 2023

Petitioner :- Neha Patel

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

Counsel for Petitioner :- Raj Kumar Singh, Rajat Aren, Rishi Shrivastava

Counsel for Respondent :- C.S.C., Archana Singh

Hon'ble Manjive Shukla, J.

1. Heard Sri Rajat Aren, Sri Raj Kumar Singh and Sri Rishi Shrivastava, learned counsels appearing for the petitioner, learned Standing Counsel appearing for Respondents No. 1, 2 and 5 and Smt. Archana Singh, learned counsel appearing for Respondents No. 3, 4 and 6.

2. Petitioner through this writ petition has challenged the order dated 14.8.2023 passed by the District Basic Education Officer, Jhansi whereby petitioner was directed to go back and join in District Chitrakoot.

3. This court after hearing parties' counsels at length passed a detailed order on 31st October, 2023 which is extracted as under:

"1. Heard learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondents No.1 and 2 as well as Smt. Archana Singh, learned counsel appearing for the Respondents No.3, 4 and 6.

2. Petitioner through this writ petition has challenged the order dated 14.8.2023 passed by the District Basic Education Officer, Jhansi, whereby he has sent the petitioner back to district Chitrakoot for her joining in the said district.

3. This court, after hearing parties' counsels, passed a detailed order on 18.10.2023, which is extracted as under:-

"1. Heard learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondents No. 1 & 2 as well as Smt. Archana Singh, learned counsel appearing for the Respondents No. 3, 4 & 6. 2. Besides other arguments, learned counsel appearing for the petitioner has submitted that the petitioner has been transferred from District Chitrakoot to District Jhansi on the basis of certain weightage marks. Petitioner has also been given ten weightage marks for posting of her spouse but even if the said weightage marks are removed, petitioner has sufficient weightage marks i.e. 35 to her credit which are sufficient for her transfer from District Chitrakoot to District Jhansi.

3. It has been argued by the learned counsel appearing for the petitioner that the petitioner is

eligible and entitled for her inter district transfer but the District Basic Education Officer, Jhansi without having any jurisdiction in the matter, has sent the petitioner back for joining in District Chitrakoot.

4. Learned counsel appearing for the petitioner has also invited attention of this court towards order passed in Writ-A No. 12912 of 2023 and has submitted that the petitioner's case is also identically placed.

5. Smt. Archana Singh, learned counsel appearing for the Respondents No. 3, 4 & 6 prays for shortest possible time for taking instructions in this matter.

6. Time prayed for is granted.

7. List this matter on 26.10.2023, as fresh."

4. In compliance of this court's order dated 18.10.2023, the Secretary, U.P. Basic Education Board, Prayagraj vide his order dated 30.10.2023 has directed the District Basic Education Officer, Jhansi to re-visit his order dated 14.8.2023 for the reason that even if 10 weightage marks granted to the petitioner regarding posting of her spouse are removed, petitioner is entitled for transfer from district Chitrakoot to district Jhansi.

5. Smt. Archana Singh, learned counsel appearing for the Respondents No.3, 4 and 6 has submitted that the Secretary, U.P. Basic Education Board, Prayagraj vide his order dated 30.10.2023 has already directed the District Basic Education Officer, Jhansi to re-visit his order dated 14.8.2023 and to do needful in the matter, therefore it is expected that very soon grievance of the petitioner will be redressed by the District Basic Education Officer, Jhansi.

6. Smt. Archana Singh prays for a week's time to bring on record the consequential order to be passed by the District Basic Education Officer, Jhansi in terms of the order dated 30.10.2023 passed by the Secretary, U.P. Basic Education Board, Prayagraj.

7. Time prayed for is granted.

8. List this matter on 8.11.2023 as fresh."

4. Learned counsel appearing for the petitioner has submitted that in compliance of this court's order dated 31st October, 2023 order impugned in this writ petition has been recalled and petitioner has been permitted to join at District Jhansi on 9.11.2023. It has also been informed that even petitioner has been allotted a particular school on 21st November, 2023.

5. Learned counsel appearing for the petitioner at this stage has submitted that since authorities themselves have recalled the order dated 14.08.2023 which is impugned in this writ petition, therefore, petitioner's joining at District-Jhansi be treated w.e.f. the date when earlier she was allowed to join at District-Jhansi that is w.e.f. 4.7.2023.

6. Smt. Archana Singh learned counsel appearing for Respondents No. 3,4 and 6 does not have any objection to the aforesaid submission made by learned counsel appearing for the petitioner.

7. In view of the aforesaid submissions, this writ petition is finally disposed of with a direction that petitioner's joining at District-Jhansi shall be treated w.e.f. 4.7.2023 and petitioner shall also be paid consequential service benefits including salary.

Order Date :- 21.11.2023

Kumar Manish.