

**Court No. - 36**

**Case :-** WRIT - A No. - 15188 of 2023

**Petitioner :-** Smt. Vidyawati Devi

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

**Counsel for Petitioner :-** Bhuvnesh Kumar Singh, Apurva Hajela

**Counsel for Respondent :-** C.S.C., Bhupendra Kumar Tripathi

**Hon'ble Manjive Shukla, J.**

1. Heard learned counsel appearing for the petitioner and learned Additional Chief Standing Counsel appearing for the Respondents No. 1, 2 & 3.

2. Petitioner through this writ petition has challenged the order dated 04.07.2023 passed by the District Basic Education Officer, Ghazipur, whereby the order by which petitioner was permitted to join on her post of Shiksha Mitra in Primary School-Gosalpur-II, Gram Panchayat-Gosalpur, Block-Barachawar, District- Ghazipur has been cancelled.

3. Learned counsel appearing for the petitioner has submitted that a complaint was lodged by one Mr. Santosh Singh resident of Village and Post Patah, District Ghazipur, whereby certain allegations were levelled against the petitioner's reinstatement made on the post of Shiksha Mitra vide order dated 21.12.2022. On the basis of the aforesaid complaint inquiry was conducted and on the basis of inquiry report a show cause notice was issued to the petitioner on 02.05.2023. Petitioner in response to the said show cause notice filed an application before the District Basic Education Officer, Ghazipur, whereby she requested that copy of complaint made by Mr. Santosh Singh be provided to her so that she may submit an effective reply of the show cause notice dated 02.05.2023.

4. The District Basic Education Officer, Ghazipur did not provide copy of complaint filed by Sri. Santosh Singh to the petitioner and without permitting the petitioner to submit her reply regarding complaint made by Mr. Santosh Singh, has passed an order on 04.07.2023, whereby petitioner's reinstatement on the post of Shiksha Mitra has been cancelled.

5. Learned counsel appearing for the petitioner has vehemently

argued that once the impugned order has been passed on the basis of complaint submitted by Mr. Santosh Singh then it was obligatory on the District Basic Education Officer, Ghazipur to at least provide a copy of the said complaint to the petitioner and thereafter permit the petitioner to file her detailed reply but in the present case, in spite of the demand made by the petitioner, copy of the complaint submitted by Mr. Santosh Singh has not been provided to the petitioner. The District Basic Education Officer, while passing order dated 04.07.2023 has only said that since petitioner demanded the copy of the complaint filed by Mr. Santosh Singh and has not submitted her reply, therefore, the findings recorded in the inquiry report are final and thereby has passed an order whereby order permitting petitioner to join on the post of Shiksha Mitra has been cancelled.

6. Learned counsel appearing for the petitioner has argued that the aforesaid order dated 04.07.2023 has been passed by the District Basic Education Officer, Ghazipur in gross violation of the principles of natural justice.

7. On the other hand, Mr. A.K. Nagvanshi, learned Additional Chief Standing Counsel appearing for the Respondents No. 1, 2 & 3 though has opposed the writ petition but could not justify the reason for not providing the copy of the complaint made by Mr. Santosh Singh to the petitioner, on the basis of which District Basic Education Officer, Ghazipur has passed order on 04.07.2023 which is impugned in the present writ petition.

8. Lastly it has been submitted by Mr. A.K. Nagvanshi that the order dated 04.07.2023 may be set aside by this court and matter may be remanded to the District Basic Education Officer, Ghazipur to pass fresh order after providing a copy of complaint submitted by Mr. Santosh Singh and after permitting the petitioner to file her reply. Mr. A.K. Nagvanshi has further submitted that since there is charge against the petitioner that she remained absent from duty without sanction of leave and during that period she has contested the election of Gram Pradhan, therefore, reinstatement of the petitioner may not be directed at this moment of time rather her reinstatement may depend on the fresh order to be passed by the District Basic Education Officer, Ghazipur.

9. I have considered the submissions advanced by the learned counsels appearing for the parties and I find that the District Basic Education Officer, Ghazipur has passed order on 04.07.2023 on the basis of the complaint lodged by Mr. Santosh Singh and an ex-parte inquiry conducted in the matter. I also find that before

passing the order dated 04.07.2023 neither copy of the complaint was provided to the petitioner nor she was given adequate opportunity to file her reply, therefore, the order dated 04.07.2023 passed by the District Basic Education Officer, Ghazipur is in gross violation of the principles of natural justice.

10. In view of the aforesaid reasons, this writ petition is allowed order dated 04.07.2023 is quashed. Matter is remanded to District Basic Education Officer, Ghazipur with a direction to provide copy of the complaint filed by Mr. Santosh Singh along with the inquiry report, if any, to the petitioner and permit her to file response to the show cause notice and thereafter to pass fresh order in the matter within two months from the date of service of certified copy of this order.

11. It is made clear that this court has not directed for allowing the petitioner to work on the post of Shiksha Mitra at once rather her continuance on the post of Shiksha Mitra shall depend on the fresh order to be passed by the District Basic Education, Ghazipur.

**Order Date :- 6.11.2023**

Gaurav