

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 6222 of 2022

Applicant :- Jitendra Kumar Srivastava

Opposite Party :- Shri Prem Prakash Maurya, Deputy Director Of Education(Secondary) And Another

Counsel for Applicant :- In Person

Hon'ble Rohit Ranjan Agarwal,J.

Heard Sri Jitendra Kumar Srivastava, the applicant in person and learned Standing Counsel for State.

The writ Court on 23.05.2022 while allowing Writ-A No. 395 of 2022 passed the following order:-

"Petitioner is permitted to implead District Inspector of School,Kanpur Nagar as respondent no.6 in the array of the parties within the course of the day.

Heard Shri Jitendra Kumar Srivastava,in person; and Shri Gautam Baghel, learned counsel for the respondent no.3.

Supplementary counter affidavit has been filed by Shri Gautam Baghel, learned counsel for the respondent no.3, wherein letter dated 30.4.2022 of the Committee of Management has been attached.By the aforesaid letter District Inspector of School, Kanpur Nagar has been expected to grant approval to the termination of service of the petitioner.

This court finds that the action of the University has been taken in accordance with First Statute of the Kanpur University.

The petitioner has appeared in person and has expressed apprehension that the order of approval shall be granted in favour of the Committee of Management of the college without hearing him and he has assailed the entire inquiry proceedings on the ground that no inquiry has been conducted at all against the petitioner.He has not been accorded any hearine nor witnesses of prosecution have been allowed to be cross examined by him. The inquiry conducted against him is illegal.The approval of the termination sent to the District Inspector of School,Kanpur Nagar is not in accordance with law.

Learned counsel for the respondent no.3 has submitted that the apprehension of the petitioner is ill founded.

It is hereby directed that the District Inspector of Schools,Kanpur Nagar will accord opportunity of hearing to the petitioner as well as Committee of

management and only after considering their objection the approval/disapproval to terminate the service of the petitioner shall be granted .The entire exercise shall be completed within three months from today."

Thereafter, a Review/Recall Application No. 276 of 2022 as well as Modification Application No. 5 of 2022 was moved by the applicant. The writ Court dismissed the review/recall application on the statement made by applicant. Further, the modification application was also dismissed on 26.07.2022. The order passed by writ Court on 23.05.2022 has been complied with by District Inspector of Schools. The order passed by writ Court on 28.07.2022 on modification application is as under:-

"Order on Civil Misc. Review / Recall Application No. 276 of 2022

The petitioner, Jitendra Kumar Srivastava, who has appeared in person in the Court today has stated that he does not wishes to press this application.

Accordingly, this application is dismissed as not pressed.

Order on Civil Misc. Modification Application No. 5 of 2022

Heard the petitioner, Jitendra Kumar Srivastava, in person and Sri Gautam Baghel, learned counsel for the respondent nos. 3 and 4.

This modification application has been filed by the petitioner praying for modification of the order datd 23.05.2022 passed by this Court in the above noted writ petition. He has submitted that in the order dated 23.05.2022 of this Court the direction of the District Inspector of Schools, Kanpur Nagar, to accord opportunity of hearing to the petitioner as well as committee of management before granting approval / disapproval to the termination of service of the petitioner is not in accordance with law since it is Regional Higher Education Officer who is competent to approve / disapprove the termination order of the petitioner. He has relied upon the judgment of this Court in Writ ? A No. 9908 of 2020, C/M Bundelkhand Mahavidyalaya, Jhansi vs. State of U.P. and 3 others, in suppot of his contention.

Sri Gautam Baghel, learned counsel appearing on behalf of the respondent no. 3, Board of Management of the institution, has vehemently opposed the arguments and has submitted that the judgment of this Court relied upon by the petitioner is regarding First Statutes of Bundelkhand University, 1977 and in the aforesaid statute the Regional Higher Education Officer is authorized to approve / disapprove any disciplinary action of the appointing authority regarding an employee of the institution.

He has further submitted that to the institution of respondent no. 3 the First Statute of University of Kanpur, 1977 apply and in statute 21.02 (3), it is clearly provided that "every decision of the appointing authority referred to in clause (2) shall, before it is communicated to the employee be reported to the District Inspector of Schools and shall not take effect unless it is approved in writing." In sub-clause (4) appeal against such order of District Inspector of

Schools is provided before the Regional Deputy Director of Education.

In view of the above, the argument of the petitioner has no merit and is hereby turned down.

Sri Gautam Baghel, learned counsel appearing on behalf of the respondent no. 3, has admitted that in pursuance of the order of this court dated 23.05.2022, the District Inspector of Schools, Kanpur Nagar, has already approved the termination of the petitioner. Hence, it is clear that the order has been complied and no modification is required in the same being in accordance with law.

The modification application is misconceived and is accordingly, dismissed."

From perusal of the order passed on modification application and order in the review application, it transpires that order of writ Court has been complied with by District Inspector of Schools, as such, no case for contempt is made out.

However, leaving it open to the applicant to assail the order passed by District Inspector of Schools before appropriate forum, if he so wished.

After the matter was concluded, the applicant informed the Court that he had already filed Writ-A No. 12243 of 2023. Once the applicant himself states that he has challenged the proceedings before writ Court against the order passed by opposite party, the present contempt application is not maintainable.

The contempt application is misconceived and stands dismissed.

Order Date :- 13.10.2023

V.S.Singh