

Court No. - 35

Case :- WRIT - A No. - 15018 of 2023

Petitioner :- Narendra Kumar Jain

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

Counsel for Petitioner :- Shivendu Ojha, Sneh Pandey, Sr. Advocate

Counsel for Respondent :- C.S.C., Avneesh Tripathi, Nipun Singh

Hon'ble Vikas Budhwar, J.

1. Rejoinder affidavit filed today is taken on record.
2. Heard Sri R.K. Ojha, learned Senior Counsel appearing for the writ petitioner as well as Sri Santosh Kumar, learned Standing Counsel who appears for respondents No. 1, 2 and 3 and Sri Avneesh Tripathi, learned counsel has accepted notice on behalf of the third respondent and Sri Nipun Singh, learned counsel who appears for respondents No. 5 and 6.
3. The case of the writ petitioner is that there is an institution by the name of Digambar Jain College, Baraut, District Baghpat which is a minority institution enjoying certain protection under Article 30 of the Constitution of India. It is further the case of the writ petitioner that he happens to be the life member of the general body and since there is a serious Managerial dispute and the matter is pending in litigation before this Court itself, thus, according to the writ petitioner who happens to be the life member of the society, the fourth and the fifth respondent have no authority under law to proceed with the advertisement sought to be published on 06.08.2023 for the post of Assistant Professor Hindi (1), B.Ed. (2), Geography (1), Political Science (2), Drawing and Painting (2), Chemistry (1), History (1), Library Science (1) and advertisement dated 10.08.2023 for Assistant Professor in Hindi, English,

Sanskrit, Economics, Geography, Psychology, History, Mathematics and Chemistry.

4. Sri Nipun Singh, learned counsel who appears for respondents No. 5 and 6 submits that it is not the first time wherein the life member has approached this Court raising the grievance regarding the Managerial dispute as earlier also writ petition so filed being Writ A No. 4934 of 2014 (Subhash Chandra Jain Vs. State of U.P. & 6 Others) decided on 27.01.2014 and wherein this Court proceeded to pass the following orders.-

"Heard learned counsel for the parties.

Petitioner claims to be a life member. He submits that because of the orders passed in Civil Misc. Writ Petition No. 2674 of 2001, decided on 09.3.2010 and Civil Misc. Writ Petition No. 45786 of 2010, there is a serious dispute with regard to Committee of Management of the Institution/Society and therefore such committee cannot be permitted to hold fresh elections.

We are of the considered opinion that no interference under Article 226 of the Constitution of India is warranted at this stage inasmuch as no appointment in the institution can be made unless it is approved by the Vice-Chancellor/Regional Higher Officer nor any payment of salary can be released from State exchequer.

We dispose of this writ petition hearing it open for the authority concerned to examine all aspects of the matters before sanctioning the appointment."

5. Writ A No. 41677 of 2015 (Aridaman Kumar Jain & Another Vs. State of U.P. & 4 Others) decided on 28.07.2025.-

"Heard learned counsel for the parties.

No interference at the stage of proceedings is called for. As and when selection takes place, it will be open to the petitioners to represent their grievances before the Vice Chancellor of the University inasmuch as no

selection can take effect unless it is approved by the Vice Chancellor. It goes without saying that the Vice Chancellor shall examine all aspects of the matter including the objection, if any filed by the petitioners, by means of a reasoned order.

The writ petition is disposed of accordingly."

6. He seeks to rely upon the judgment in Writ A No. 14360 of 2023 (Sukhmal Chand Jain Vs. State of U.P.) decided on 29.08.2023.

7. According to him, as per the statute governing the field no appointments can be accorded until and unless the stand approved by the Vice Chancellor/ Regional Higher Education Officer or before any payment can be made, released from the State Exchequer.

8. Confronted with the said orders, Sri Ojha, learned Senior Counsel appearing for the writ petitioner submits that the basic purpose for filing the present writ petition is attributable to the fact that the writ petitioner is conscious about his rights as life member and he seeks an environment whereby there should not be any compromise on merit that too by a rank stranger or usurper.

9. Considering the submission of the rival parties as well as the stand taken by them, the writ petition is being disposed of at this stage without seeking any response providing that before proceeding to issue any appointment, approval be taken from the competent authority as per the statute. The entertaining of the present writ petition may not be construed to be an expression that this Court has even otherwise endorsed the right of the writ petitioner to maintain the writ petition as obviously this Court being the guardian of law is concerned with a situation wherein there is no compromise upon the merit and further the fact that the appointments are duly made as per statute and approved by the

competent authority. Nonetheless, it is always open for the writ petitioner to join the proceedings, if the law provides and he is able to convince the authorities in that regard.

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

Order Date :- 2.11.2023

Rajesh