

Court No. - 35

Case :- WRIT - A No. - 15726 of 2023

Petitioner :- C/M, Guru Narayan Khatri Inter College And Another

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

Counsel for Petitioner :- Rahul Jain

Counsel for Respondent :- C.S.C,Alok Dwivedi

Hon'ble Vikas Budhwar,J.

Sri Rahul Jain, learned counsel for the petitioner submits that the order dated 11.05.2023 passed by the Director of Education (Secondary), U.P., Prayagraj, second respondent, is patently illegal, contrary to law, particularly in view of the fact that the said order required the Joint Director of Education, Kanpur Region, Kanpur to revisit the order dated 28.09.2022, which was passed against the fifth respondent Sri Awadhesh Kumar Katiyar. He submits that the said direction could not have been issued for the simple reason that the said order was subject matter of challenge in Writ-A No.18541 of 2022, *Awadhesh Kumar Katiyar Vs. State of U.P. and others*, in which on 16.11.2022, an interim order was passed in favour of the fifth respondent staying the effect and operation of the order dated 16.11.2022 calling response from the respondents including the writ petitioners herein.

The submission is that once the matter is sub-judice before the Court and this Court is seized with the matter, then no such directions could have been issued.

Sri Rahul Jain has also relied upon a communication of the Joint Director of Education (Secondary), Prayagraj, wherein the Joint Director, Kanpur Region, Kanpur has apprised the Director Education (Secondary) that since the matter is pending before the Court, thus further exercise in this regard would not be justified.

Sri Rahul Jain further submits that now the second respondent is pressurizing the third respondent to pass orders in favour of the fifth respondent.

Sri R.K. Ojha, learned Senior Counsel assisted by Sri Alok Dwivedi, who appears for the fifth respondent submits that the writ petition has virtually become infructuous, particularly when after order/ communication dated 11.05.2023, the Joint Director of Education, Kanpur Region, Kanpur, third respondent, has issued a communication, whereby he has shown his inability to revisit the

order dated 28.09.2022.

On a pointed query being raised to Sri Rahul Jain, learned counsel for the writ petitioner, as to how, now, he is aggrieved against the said order, he submits that the present writ petition be disposed of granting liberty to the writ petitioner to raise all their claims and contentions in the pending writ petition (Writ-A No.18541 of 2022, *Awadhesh Kumar Katiyar Vs. State of U.P. and others*).

To such a submission, learned counsel for the fifth respondent and the learned Standing Counsel have no objection.

Accordingly, the writ petition stands **disposed of** granting liberty to the writ petitioner to take all legal and factual pleas in the pending writ petition.

So far as, the apprehension of the writ petitioner that the second respondent is influencing the third respondent is concerned, it goes without saying that the competent authority shall act with independent mind, as per the provisions of law.

Order Date :- 13.10.2023

N.S.Rathour