

Court No. - 35

Case :- WRIT - A No. - 15252 of 2023

Petitioner :- Anil Kumar

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Birendra Pratap Yadav, Krishna Kant Yadav

Counsel for Respondent :- C.S.C., Arvind Kumar Singh

Hon'ble Vikas Budhwar, J.

Heard Sri B.P. Yadav, learned counsel for the petitioner, Sri P.K. Shahi, the learned Addl. Chief Standing Counsel, who appears for Respondent Nos. 1 and 2 as well as Sri Arvind Kumar Singh, who appears for Respondent nos. 3 and 4.

The case of the writ petitioner is that the fourth respondent, Sri Shiv Inter College Mirzapur is an institution recognized under the provisions of U.P. Intermediate Education Act, 1921 and the provisions of U.P. Act No. 24 of 1971 stand applicable. According to the writ petitioner, he was appointed as a Class-IV employee in the Institution in question on 03.08.1990 and he was discharging the duties as a Sweeper. He claims to have been placed under suspension earlier on 06.05.2015 also, which came to be disapproved on 19.09.2015 and consequent to the retirement of an incumbent Avdhesh Kumar Dubey as Daftari on 31.01.2019, the petitioner staked its claim for according promotion. However, according to the writ petitioner, the respondents being infuriated with the same placed the petitioner under suspension on 19.06.2023. According to the writ petitioner, the Principal of the Institution in question, third respondent has also issued a charge sheet on 28.06.2023. Learned counsel for the writ petitioner while inviting the attention of the Court towards paragraph-29 of the writ petition has sought to submit that despite the fact that 60 days' time has expired in pursuance of the provisions contained under Section 60-G read with Chapter III Regulation 39 (2) and (3) of the U.P. Intermediate Education Act, 1921, the writ petitioner has not been reinstated in service.

Prayer in the present petition is for quashing of the order dated 19.06.2023 passed by the Principal of the Institution in question placing the writ petitioner under suspension.

This Court entertained the writ petition on 20.09.2023 while passing the following orders: -

"The submission of learned counsel for the writ petitioner is that on the basis of the letter of the District Inspector of Schools, Mirzapur, second respondent addressed to the fourth respondent, the writ petitioner has been placed under suspension on 19.06.2023.

According to the writ petitioner, he had preferred a writ petition before this Court seeking promotion, however that infuriated the respondents. While placing reliance upon Regulation - 39(2)(3) of the Chapter III of the U.P. Intermediate Education Act, 1921 and averments contained in paragraph no.27 of the writ petition, it is being sought to be contended that till date, no approval has been accorded.

Sri Santosh Kumar Mishra, learned Standing Counsel appears for respondent nos.1 and 2.

Issue notice to the respondent nos.3 and 4.

Steps to be taken by tomorrow by both ways.

Counter affidavit shall be filed by 11.10.2023.

Put up this case on 11.10.2023."

Sri P.K. Shahi, learned Addl. Chief Standing Counsel, who appears for Respondent Nos. 1 and 2 and Sri Arvind Kumar Singh submits that they do not propose to file any response or to seek instructions in the matter.

The crucial question, which arises for determination in the present proceeding is as to whether the order dated 19.06.2023 passed by the Institution in question placing the writ petitioner under suspension has been approved or not, as more than 60 days have passed.

Sri P.K. Shahi, learned Addl. Chief Standing Counsel submits that as per the provisions contained under the Statute, in particular the Regulation 39 Sub-Regulation (2) and (3) of the U.P. Intermediate Education Act, 1921, in case there is no approval accorded to the suspension, then the suspension will remain inoperative. However, he submits that these aspects of the matter need determination by the District Inspector of Schools, Mirzapur, second respondent at the first instance.

Considering the submission of the rival parties as well as the stand taken by them, the writ petition is being disposed off granting liberty to the writ petitioner to approach the second respondent within a period of one week from today along with a comprehensive representation accompanied with self-attested copy

of the writ petition, who shall, on the receipt of the same, shall put to notice the third and fourth respondents and thereafter proceed to decide the claim of the writ petitioner within a further period of two weeks.

Needless to point out that the writ petitioner has been decided without seeking any response from the respondents, thus passing of this order may not be construed to an expression that this Court has adjudicated the matter on merits

With the aforesaid observations the writ petition stands **disposed off**.

Order Date :- 18.10.2023
N.S.Rathour