

Court No. - 35

Case :- WRIT - A No. - 15567 of 2023 (**Leading writ petition**)

Petitioner :- Smt. Preeti Chaturvedi

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

Counsel for Petitioner :- Rakesh Kumar Singh

Counsel for Respondent :- C.S.C.,Sanjeev Kumar Mishra

With

Case :- WRIT - A No. - 3920 of 2023 (**Connected C1**)

Petitioner :- C/M Chaturvedi Inter College And Another

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

Counsel for Petitioner :- Sanjeev Kumar Mishra,Nitinjay Pandey

Counsel for Respondent :- C.S.C.,Niklank Kumar Jain

With

Case :- WRIT - A No. - 1751 of 2020 (**Connected C2**)

Petitioner :- C/M Chaturvedi Inter College, Kasganj, And Another

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

Counsel for Petitioner :- Sanjeev Kumar Mishra

Counsel for Respondent :- C.S.C.,Niklank Kumar Jain

With

Case :- WRIT - A No. - 1917 of 2019 (**Connected C3**)

Petitioner :- Rajendra Kumar And Another

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Nitinjay Pandey,Sanjeev Kumar Mishra

Counsel for Respondent :- C.S.C.,Niklank Kumar Jain

Hon'ble Vikas Budhwar,J.

1. Since common question of facts and laws are involved in both the writ petitions, thus, they are being decided by a common/composite order, for the sake of brevity, the Writ A No. 15567 of 2023 (Preeti Chaturvedi Vs. State of U.P. & 3 Others) is treated as leading writ petition, Writ A No. 3920 of 2023 (C/M Chaturvedi Inter College Vs. State of U.P. & 4 Others) is treated as connected C1 writ petition, Writ A No. 1751 of 2020 (C/M Chaturvedi Inter College & Another Vs. State of U.P. & Others) is treated as connected C2 writ petition and Writ A No. 1917 of 2019

(Rajendra Kumar & Another Vs. State of U.P. & 2 Others) is treated as connected C3 writ petition.

2. Heard Sri Rakesh Kumar Singh, learned counsel for the writ petitioner, Smt. Preeti Chaturvedi wife of Sri Satya Prakash Chaturvedi, Sri Ratan Deep Mishra, learned Standing Counsel who appears for the State official-respondents as well as Sri Nitinjay Pandey, learned counsel who appears for the Officiating Principal as well as C/M Chaturvedi Inter College Jahangirpur, District Kasganj. Learned counsel for the parties have made a statement at Bar that they do not propose to file any further response, thus, the writ petition be decided at the fresh stage. Since the writ petitions which are four in number are inter-linked and interwoven, thus, they are being decided by a composite order.

3. The case of the writ petitioner, Smt. Preeti Chaturvedi is that there happens to be an institution by the name of Chaturvedi Inter College, Jahangirpur. District Kasganj which is recognized under the provisions of U.P. Intermediate Education Act, 1921 and the provisions of U.P. Act No. 24 of 1971 stand applicable.

4. Smt. Preeti Chaturvedi claims herself to be a class IV employee who was appointed under dying-in-harness rules on 01.09.2006. As per Smt. Preeti Chaturvedi a scuffle took place in the institution in question on 06.12.2018 which culminated into lodging of the first information report and submission of a charge sheet. The complaint whereof was also lodged before the District Magistrate, Kasganj and Smt. Preeti Chaturvedi further claimed that on the basis of an ex parte inquiry report she was placed under suspension on 14.12.2018. The suspension of Smt. Preeti Chaturvedi engaged attention before the District Inspector of Schools, Kasganj which resulted in passing of an order dated 19.12.2018 by the District Inspector of Schools, Kasganj whereby the suspension of Smt. Preeti Chaturvedi was kept in abeyance. The same led to filing of Writ Petition No. 1917 of 2019 (connected C3 writ petition) in which an interim order was granted on 14.02.2019 whereby the order dated 19.12.2018 was stayed, however, it was open to the Competent Authority to proceed with the inquiry in the meantime. Since according to Smt. Preeti Chaturvedi, neither the charge sheet was served nor the inquiry was being proceeded with and she was denied payment of her regular dues she preferred Writ A No. 11889 of 2019 which came to be disposed of on 20.08.2019 requiring the District Inspector of Schools, Kasganj to take appropriate decision. Thereafter, as per Smt. Preeti Chaturvedi, an order is stated to have been passed on 20.11.2019 by the District Inspector of Schools, Kasganj whereby Smt. Preeti Chaturvedi was

made admissible to the payment of ACP, subsistence allowance and earned leave etc. The said order was subject matter of challenge while filing connected C2 writ petition in which the Committee of Management of the institution in question was not accorded any interim protection, however, certain amounts have been paid to Smt. Preeti Chaturvedi. In the meantime as per Smt. Preeti Chaturvedi, on the basis of an ex parte inquiry report her services stood terminated on 09.08.2019 by the Principal of the institution in question. Thereafter, according to Smt. Preeti Chaturvedi, an order is stated to have been passed on 30.07.2022 by the District Inspector of Schools, Kasganj whereby owing to the instructions of the local M.L.A., the District Inspector of Schools, Kasganj accorded to grant of payment of salary and reinstatement to the writ petitioner. On the basis of the said order of the District Inspector of Schools, Kasganj Smt. Preeti Chaturvedi approached the Officiating Principal of the institution in question on 02.01.2023 for according joining and on 03.01.2023 the Officiating Principal of the institution in question accorded joining to Smt. Preeti Chaturvedi and she continued to function in the post in question. The order dated 30.07.2022 as well as the communication dated 03.01.2023 of the Officiating Principal of the institution in question was subject matter of challenge in connected C1 writ petition by the Committee of Management of the institution in question which was entertained by this Court. According to Smt. Preeti Chaturvedi though she was accorded joining on 03.01.2023, however, a communication had been issued on 28.03.2023 by the Principal of the institution in question followed by another order dated 03.04.2023 whereby Smt. Preeti Chaturvedi has been stopped from functioning in the post in question and her salary has been withheld. These orders have been challenged by Smt. Preeti Chaturvedi in the leading writ petition. Since the writ petitions are interwoven and inter-connected, thus, by virtue of an order dated 28.10.2023 and 08.11.2023 all the writ petitions were connected together and they are before this Court.

5. Sri Rakesh Kumar Singh, learned counsel for Smt. Preeti Chaturvedi submits that the orders impugned in the leading writ petition dated 28.03.2023 and 03.04.2023 insofar as recalls the earlier order with regard to joining of Smt. Preeti Chaturvedi are per se illegal and arbitrary as by no stretch of imagination it can be said that Smt. Preeti Chaturvedi had played fraud as all the facts were before the authorities while passing the order of joining of Smt. Preeti Chaturvedi and merely because the termination order dated 09.08.2019 was not put to challenge in appeal would not be relevant particularly when the Committee of Management and the

Officiating Principal has already waived their right and had accepted the fact and ignored the termination of the services of Smt. Preeti Chaturvedi.

6. Sri Nitinjay Pandey, learned counsel who appears for the Committee of Management and Principal of the institution in question submits that might be a fraud had not been played by Smt. Preeti Chaturvedi but what is relevant is the fact that there happens to be a conscious decision of the Committee of Management terminating the services of Smt. Preeti Chaturvedi and once the said order has attained finality as of now not being put to challenge in appeal or before any Competent Court of law it would be inter se binding between the parties and mere exerting pressure by a stranger who is not competent under the provisions of U.P. Intermediate Education Act, 1921 would not clothe Smt. Preeti Chaturvedi with a right to continue in the post in question, he submits that the Officiating Principal had committed an error while according joining as once termination order is still in existence then it could not have been ignored in the manner.

7. Sri Ran Deep Mishra, learned Standing Counsel, on the other hand, submits that the order of the District Inspector of Schools, Kasganj dated 30.07.2022 cannot be interpreted in such a manner so as to suggest that Smt. Preeti Chaturvedi has a right as the said order has been mis-construed and probably had been passed overlooking the fact that the termination order was still in existence as of now.

8. I have heard the learned counsel for the parties and perused the record carefully.

9. Undisputedly, the services of Smt. Preeti Chaturvedi stood dispensed with by virtue of an order dated 09.08.2019 and in the wake of the fact that the provisions of U.P. Intermediate Education Act, 1921 and the regulations so framed thereunder stands applicable. As rightly pointed out by Sri Rakesh Kumar Singh a remedy of an appeal before the Committee of Management finds place in Chapter III Regulation 31 of the U.P. Intermediate Education Act, 1921, thus, if till today, the termination order has not been challenged in an appeal the right of Smt. Preeti Chaturvedi cannot be curtailed and put to naught while denuding her to file an appeal. Since the order dated 09.08.2019 has not been recalled or set aside and it still existing and the Committee of Management as well as the Principal of the institution are hinging their right on the basis of the said order, thus, in the opinion of the Court Smt. Preeti Chaturvedi could not have been continued to be

posted as rightly so the orders dated 28.03.2023 and 03.04.2023 have been passed. At this stage, Sri Rakesh Kumar Singh, learned counsel for the petitioner submits that the orders be set aside but liberty be accorded to the writ petitioner, Smt. Preeti Chaturvedi to prefer an appeal before the Committee of Management in view of the said provision. He further submits that now much delay has occurred, thus, this Court may condone the delay in this regard.

10. To such a submission, Sri Nitinjay Pandey, learned counsel who appears for the Committee of Management submits that it is always open for Smt. Preeti Chaturvedi to seek condonation of delay while taking aid to the legal principles as well as the law laid down by the Hon'ble Apex Court in the case of ***P. Sarathi Vs. State Bank of India AIR (2000) Supreme Court 2023*** as well as the provisions contained under Section 14 of the Limitation Act, 1962.

11. Accordingly, this Court is of the opinion that the orders dated 28.03.2023 passed by the Principal of the institution as well as the order dated 03.04.2023 needs no interference.

12. Resultantly, the leading Writ Petition No. 15567 of 2023 is dismissed. Since, in sequel, the connected C1 writ petition (Writ A No. 3920 of 2023) stands allowed, the orders dated 30.07.2022 passed by the District Inspector of Schools, Kasganj and 03.01.2023 of the Principal are set aside. Insofar as connected C2 writ petition (Writ A No. 1751 of 2020) is concerned the same has rendered infructuous as Smt. Preeti Chaturvedi has been made entitled to the allowances on the strength of the order dated 20.11.2019 and lastly connected C3 writ petition (Writ A No. 1917 of 2019) questioning the order dated 19.12.2018 of the District Inspector of Schools, Kasganj also renders infructuous particularly when the ultimate termination order dated 09.08.2019 has been passed.

13. Passing of this order may not preclude Smt. Preeti Chaturvedi to avail remedy of preferring an appeal before the Appellate Authority while taking all legal and factual grounds as well as the grounds for delay and, in case, such an appeal is preferred this Court has no reason to disbelieve that the same is to be decided expeditiously.

Order Date :- 16.11.2023

Rajesh