

Court No. - 35

Case :- WRIT - A No. - 15550 of 2023

Petitioner :- Atul Kumar

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

Counsel for Petitioner :- Sandeep Kumar

Counsel for Respondent :- CSC

Hon'ble Vikas Budhwar,J.

Heard Sri Sandeep Kumar, learned counsel for the writ petitioner, Sri Santosh Kumar Mishra, learned Standing Counsel, who appears for the respondent nos.1 and 2.

In view of the order, which is being proposed to be passed, notices are not being issued to the third and fourth respondent.

The case of the writ petitioner is that the fourth respondent, Shiv Jiyawan Inter College, Lediary, District Prayagraj is an institution recognized under the provisions of U.P. Intermediate Education Act, 1921, U.P. Act No.24 of 1971 and U.P. Act No.5 of 1982 stands applicable.

As per the writ petitioner, there are 10 sanctioned post, in which one post is of Daftari, as per the Jan Shakti. It is further the case of the writ petitioner that one post of Class IV became vacant, consequent to the promotion of one Sri Ram Sagar on 02.04.2009. Thereafter, the Principal of the institution sent a letter for granting permission. It is further the case of the writ petitioner that permission has been accorded, by order dated 26.08.2019 of DIOS and advertisement was published on 10.02.2010 and the writ petitioner armed with the necessary qualifications applied in pursuance thereof, he was subjected to selection on 07.03.2010 and thereafter he was issued an appointment order and he joined the post accordingly. Thereafter, the matter was transmitted before the third respondent, District Inspector of Schools, Allahabad on 07.04.2010, but till date no decision whatsoever has been taken.

Prayer in the present petition is for a direction to take decision for the request letter for according approval.

Sri Santosh Kumar Mishra, learned Standing Counsel, who appears for the respondent nos.1 to 3 on the other hand submits

that the issue as to whether the approval is to be accorded for appointment of the writ petitioner needs determination at the first instance by the third respondent. Thus, according to him, the writ petitioner may represent his cause either directly or through the third/fourth respondent before the third respondent. He further submits that he does not propose to file any response to the writ petition.

To such a submission, learned counsel for the writ petitioner has no objection to the same and he gracefully accepts the same.

Considering the submission of the rival parties as well as the stand taken by them, the writ petition is being disposed off without seeking any response granting liberty to the writ petitioner to prefer a comprehensive representation before the third respondent along with the self attested copy of the writ petition, who shall on the receipt of the same put to notice the fourth respondent and thereafter proceed to decide the entitlement of the writ petitioner strictly in accordance with law within a period of three months from the date of production of the certified copy of the order, bearing in mind the following fundamental and core issues :-

- a) The number of sanctioned strength;
- b) The number of the vacancies lying vacant;
- c) The suitability, eligibility of the writ petitioner;
- d) The conduction of the selections without making approval;
- e) The continuance of the writ petitioner;
- f) Any other ancillary or incidental issue;
- (g) Issue of delay in approaching the court of law for redressal of the grievances.

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

Order Date :- 12.10.2023

S.A.