

Court No. - 35

Case :- WRIT - A No. - 15504 of 2023

Petitioner :- Deshvir Singh

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Satyendra Chandra Tripathi

Counsel for Respondent :- C.S.C., Krishna Kumar Chand

Hon'ble Vikas Budhwar, J.

On the oral request of learned counsel for the writ petitioner, it is permitted to implead Regional Selection Committee Meerut Mandal, Meerut as respondent No. 9 during the course of the day.

1. Heard Sri Satyendra Chandra Tripathi, learned counsel for the writ petitioner, Sri Shailendra Singh, learned Standing Counsel who appears for respondents No. 1 to 5 and Sri K.K. Chand, learned counsel who appears for respondent No. 6.

2. This Court while entertaining the writ petition on 18.09.2023 had sought response from the respondents and had issued notices to respondents No. 7 and 8. There is an office report dated 20.09.2023 that notice has been issued to respondents No. 7 and 8 and further the service report dated 16.10.2023 depicts that item has been delivered to the respondents. Till the dictation of the order nobody appears on behalf of respondents No. 7 and 8.

3. Sri Shailendra Singh, learned Standing Counsel who appears for respondents No. 1 to 5 and Sri K.K. Chand, learned counsel who appears for respondent No. 6 submits that in view of the order which is being proposed to be passed, they do not propose to file any response and the writ petition has been decided on the basis of the averments contained in the writ petition.

4. The case of the writ petitioner is that the seventh respondent, Krishak Hitkari Inter College, Chitsauna, Allipur, District Bulandshahr 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 and the said institution is imparting education from class VI to XII and the said institution is in grant-in-aid list upto High School level. According to the writ petitioner, pursuant to the selections undertaken by the sixth respondent, U.P. Secondary Education Service Selection Board, Alenganj, Prayagraj by virtue of an advertisement No. 1 of 2001

the writ petitioner applied for recruitment on the post of Assistant Teacher and he was selected as Assistant Teacher (Physical Education) by the Commission and on 27.11.2002 the fourth respondent, District Inspector of Schools, Bulandshahr issued a direction to the institution in question to permit the writ petitioner to join the post in question and the writ petitioner joined the post in question, however, on the basis of a complaint of one Sri Arvind Kumar Gautam, the writ petitioner's functioning was stalled which emanated a situation whereby the writ petitioner preferred Writ A No. 5888 of 2003 in which the writ petitioner was allowed to function, however, the inquiry was directed to be concluded. As no inquiry whatsoever was conducted so the writ petitioner was allowed to re-join the post on 26.04.2003 and thereafter the writ petition eventually came to be dismissed, however, according to the writ petitioner the dismissal of the writ petitioner would not in any manner whatsoever affect the continuance of the writ petitioner as no inquiry was conducted. It is the further case of the writ petitioner that on 23.03.2023 the regular Headmaster Sri Jalim Singh attained superannuation and the papers were forwarded for attestation of the signature of the writ petitioner on Ad hoc Headmaster. The signature of the writ petitioner was attested on 28.06.2001 and the writ petitioner performed duties as Ad hoc Headmaster from 01.04.2020 to 19.04.2021 thereafter on 20.04.2021 one Sri Sunil Kumar was accorded placement as regular Headmaster, however, he resigned on 16.01.2023 creating a vacancy. It is further the case of the writ petitioner that on 26.02.2023 now the District Inspector of Schools, Bulandshahr, fourth respondent has proceeded to pass an order whereby he has accorded the benefit of Ad hoc Headmaster to the respondent No. 8.

5. Questioning the said order, the writ petitioner has preferred the present writ petition. The writ petition was entertained on 18.09.2023. Though notices were issued to respondents No. 7 and 8 but nobody has put in appearance.

6. Today when the matter has been taken up, learned counsel for the respondents have made a statement that the writ petition be decided on the basis of the averments made in the writ petition and they do not seek further time to file any further counter affidavit. Learned counsel for the writ petitioner while assailing the candidature of the respondent No. 8 for being offered the post of Ad hoc Headmaster has sought to contend that respondent No. 8 is junior to the writ petitioner and further he possesses the qualification of M.A./B.Ed. and he also belongs to the stream of

Assistant Teacher (Physical Education), he further submits that the qualification which he ought to have possessed was B.P.Ed. he seeks to reply upon a Full Bench decision in the case of Aman Kishor Singh Vs. State of U.P. 2018 (10) ADJ 529, he further submits that the said aspect of the matter has not been taken into consideration while according benefit to respondent No. 8.

7. Sri Shailendra Singh, learned Standing Counsel as well as Sri K.K. Chand submit that so far as the issue which the writ petitioner is seeking to raise is concerned the same needs determination by the third respondent, Joint Director of Education, Meerut Mandal Meerut who shall accord consideration and, in case, it is found that the matter needs to be addressed by some other authority, then the same may be transmitted to it. He further submits that let the writ petitioner approach the third respondent, Joint Director of Education, Meerut Mandal Meerut.

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

9. Considering the submission of the rival parties as well as the stand taken by them, the writ petition is being disposed of granting liberty to the writ petitioner to approach the third respondent, Joint Director of Education, by filing a comprehensive representation along with self attested copy of the writ petition who shall on the receipt of the same put to notice the respondents No. 7 & 8 in writing in advance and take their version and thereafter proceed to decide the entitlement of the writ petitioners within a period of two months strictly in accordance with law bearing in mind the eligibility, suitability of the writ petitioner and respondent No. 8 as well as the judgment relied upon by the writ petitioner in the case of Aman Kishor Singh (supra).

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

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

Order Date :- 17.10.2023

Rajesh