

Court No. - 35

Case :- WRIT - A No. - 15805 of 2023

Petitioner :- C/M Inter College Hardoi And Another

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

Counsel for Petitioner :- Shivendu Ojha, Sneh Pandey, Sr. Advocate

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

Vakalatnama filed by Sri Gopal Ji Khare on behalf of the fifth respondent is taken on record.

Heard Sri R.K. Ojha, learned Senior Counsel assisted by Sri Shivendu Ojha, learned counsel for the petitioners, who are two in number, Sri P.K. Shahi, the learned Addl. Chief Standing Counsel, who appears for Respondent Nos. 1 to 4 and Sri Gopal Ji Rai, who appears for the fifth respondent.

A joint statement has been made by the rival parties that they do not propose to file any affidavits in the matter and the writ petition be decided on the basis of the averments contained in the writ petition, thus with the consent of the parties, the writ petition is being decided at the fresh stage.

The case of the writ petitioner is that there happens to be an Institution by the name of Inter College Hardoi, Gujar, District Jalaun, which is an institution recognized under U.P. Intermediate Education Act, 1921 and the provisions of U.P. Act No.24 of 1971 stand applicable.

The writ petitioner no.1 claims himself to be a duly elected Committee of Management and the petitioner no.2 claims to be the Manager of the Institution in question. In paragraph-5 of the writ petition, it has been asserted that the last elections of the Committee of Management was held on 12.09.2021, term whereof was three years. As per the writ petitioner, at an earlier point of time, Authorized Controller had been appointed in the Institution in question, who was working since 1996 to 2018 in pursuance of the orders passed by this Court and thereafter, elections were held, wherein the fractions led by the writ petitioner, Committee of Management was elected on 11.09.2018. In paragraph-8, it is further asserted that the Authorized Controller had committed certain acts and omissions in that regard, which culminated into filing of the present writ petition. It is the further case of the writ

petitioner that the fifth respondent was appointed as an Assistant Teacher (LT Grade) on 31.12.1990 against a vacancy, which had been created on account of ad hoc promotion of Sri Salig Ram Yadav as a Lecturer against a vacancy, which had fallen vacant due to the medical leave availed by Sri Pratap Narayan Niranjana working as Lecturer (Sociology). He submits that the appointment of the fifth respondent is dehors the Rules and on Stop Gap Arrangement and he is not entitled to the said benefits.

It is the case of the writ petitioner that the writ petitioner, Committee of Management had made several complaints after coming into power regarding the appointment of the fifth respondent, however, now by virtue of the order dated 18.04.2023 passed by the Deputy Director of Education (Madhyamik-3) on behalf of Director of Education, Prayagraj, second respondent, the complaint so preferred by the writ petitioner had been rejected in a totally cryptic and unreasoned order.

Questioning the order dated 18.04.2023 the writ petitioners have filed the present writ petition.

Sri Ojha, learned Senior Counsel while assailing the order dated 18.04.2023 has sought to submit that the order in question does not take into consideration the crucial, fundamental and core issues, which are necessary for the purposes of adjudication, as propriety demanded that at least reasons in coming to the conclusion so as to negate the claim of the writ petitioners would have been necessarily required to be recited in the order. He submits that the order in question be set aside and the matter be remitted back to be decided after giving a re-look.

Sri Gopal Ji Khare, learned counsel for the fifth respondent and Sri P.K. Shahi, learned Addl. Chief Standing Counsel, who appears for Respondent Nos. 1 to 4 on the other hand submits that the order in question is bereft of any reason in coming to the conclusion and according to them, the order be set aside, matter be remitted back of course, subject to a condition that all the parties be granted hearing before taking any fresh exercise. They further submit that they are completely armed with instructions and they do 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 decided without seeking

any response from the respondents on the following terms: - (a) the order dated 18.04.2023 passed by the Deputy Director of Education (Madhyamik-3)/ Director of Education (Madhyamik), U.P. Prayagraj is set aside; (b) the matter stands remitted back to decide the matter afresh within a period of two months after according hearing to the writ petitioner as well as the fifth respondent.

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 :- 26.10.2023

N.S.Rathour