

Court No. - 35

Case :- WRIT - A No. - 16702 of 2023

Petitioner :- Vasudev Tiwari

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

Counsel for Petitioner :- Yogesh Kumar Saxena

Counsel for Respondent :- CSC,Lakshmi Kant Trigunait

Hon'ble Vikas Budhwar,J.

Heard Sri Yogesh Kumar Saxena, learned counsel for the writ petitioner, Shri Gaya Prasad Singh, learned Standing Counsel, who appears for Respondents 1 and 2 and Shri L.K.Trigunait, learned counsel for the respondent Nos. 4 and 5.

In view of the order, which is being proposed to be passed today, notices are not being issued.

The case of the writ petitioner is that he was appointed as an assistant teacher in the institution being Sri Malviya Inter College, Mungisapur, Kanpur Dehat District Kanpur Dehat, however, he being the senior most assistant teacher was granted officiation as principal of the institution in question on 02.11.2021. The writ petitioner alleges that several unsuccessful attempts was sought to be undertaken by other fraction of the committee of management of the institution in question including respondent No. 4 who happens to be the ex-manager and the fifth respondent for dislodging the writ petitioner as an officiating principal. He submits that the president of the committee of management of the institution preferred being Writ C No. 15295 of 2022 Committee of Management Shri Malviya Inter College and another Vs.

State of U.P. and another which came to be dismissed on 05.09.2022 holding that the fraction led by committee of management of the fourth respondent could not continue after 24.04.2021. It is further the case of the writ petitioner that he continues to officiate as a principal of the institution in question, however, the writ petitioner was placed under suspension and the said act was disapproved by the District Inspector of Schools, Kanpur Dehat on 12.09.2022 and thereafter disciplinary proceedings was also initiated against the writ petitioner against which the writ petitioner preferred being Writ A No. 15981 of 2022 in which an interim order was granted on 10.10.2022, on the premise that the private respondents therein lacked jurisdiction to conduct disciplinary inquiry.

The writ petitioner was again divested from functioning as officiating principal which led to filing of Writ A No. 4595 of 2023, Vasudev Tiwari Vs. State of U.P. in which an interim order was passed on 24.03.2023, according to the writ petitioner now on the basis of the complaint of the fourth respondent, the District Inspector of Schools, Kanpur Dehat has issued a communication to the president of the respondent No. 3, institution with regard to seeking of inputs in relation to the allegation of the forged B.Ed. Degrees. Learned counsel for the writ petitioner submits that the aforesaid action is *per se* illegal besides being *mala fide* and vindictive, particularly when on several unsuccessful attempts were made to harass the writ petitioner

Shri Trigunait who appears for the respondent No. 5 submits that the communication dated 29.08.2023 is not an order as it entails no adverse consequences and rather it is not marked but the writ petitioner is the communication of the District Inspector of Schools, Kanpur to the president of the committee of management of the institution in question. He submits that whenever a complaint is lodged, the authority who is to investigate the complaint is to accord its satisfaction while finding out and probing the truth in that regard.

Shri Yogesh Saxena has relied upon the judgment in the case of Kuldeep Kumar Pathak Vs. State of U.P. and others Civil Appeal No. 11 of 2016 decided on 05.01.2016 so as to contend that the said judgments come to his support. He also reliance upon the judgment in the case of **A Dharmraj Vs. The Chief Education Officer JT 2022 (3) SC 181.**

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

Though the writ petitioner may be right that there appears to be certain proceedings lodged against him which was kept in abeyance by the interim protection accorded by this Court as noticed above but the Court finds from the communication of the District Inspector of Schools, Kanpur Dehat to the president of the committee of management dated 29.08.2023 that verification exercise is being sought to be undertaken with respect to the B.Ed. degree.

Notably, it has been argued by Shri Saxena, learned counsel for the writ petitioner that on the same ground, the writ

petitioner was placed under suspension but the suspension was disapproved by the District Inspector of Schools, Kanpur Dehat. Looking into the said facts with the circumstances so arisen herein finds that in case, any proceedings is drawn then it is always open for the writ petitioner to take all legal and factual issues including the case that he possesses a verifiable B.Ed. degree and further it is nothing but a repeated complaints lodged against him. Since no order whatsoever has been passed adverse to the writ petition, thus, the Court does not find any justification to interfere with the said communication. However, it is provided that in case appropriate proceedings are drawn in accordance with the relevant statutes then the writ petitioner shall be accorded opportunity of hearing in accordance with law.

At this stage, Shri Trigunait who appears for the respondent no. 4 submits that his client be accorded opportunity to place as aforesaid when the proceedings are undertaken against the writ petitioner by the District Inspector of Schools, Kanpur Dehat. This Court is of the opinion that it is for the District Inspector of Schools, Kanpur Dehat to take a call upon the request of the writ petitioner to find even otherwise entertainable and in accordance with law.

With the aforesaid observation, the writ petition is **disposed off**.

Order Date :- 22.11.2023

A. Prajapati