

Court No. - 35

Case :- WRIT - A No. - 16080 of 2023

Petitioner :- Ramashankar Prasad Sonkar And 2 Others

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

Counsel for Petitioner :- Ramesh Chandra Dwivedi

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

Vakalatnama filed by Sri Vinod Kumar Singh, on behalf of respondent no.2 is taken on record.

Heard Sri Ramesh Chandra Dwivedi, learned counsel for the petitioner, Sri Shailendra Singh, learned Standing Counsel, who appears for respondents 1 and 2 and Sri Vinod Kumar Singh, who appears for the fourth respondent.

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

The case of the writ petitioner is that there happens to be an institution, third respondent, Shanti Niketan Inter College, Tekua, District Deoria, which is recognised under the provisions of U.P. Intermediate Education Act, 1921 and the provisions of U.P. Act No.24 of 1971 stands applicable.

In para 5 of the writ petition the writ petitioner has come up with the stand that there are 10 sanctioned post of Class-IV employee including one post of Daftari and 7 post of being manned and three are lying vacant in writ petition. A faint attempt has been sought to be made that though permission was sought from the District Inspector of Schools, Deoria for according prior permission for making selection on 9.3.2010 reminder whereof on 29.3.2010 but since there was no response at the end of the District Inspector of Schools, Deoria thus advertisement was published in two news paper on 2.4.2010 and as per the writ petitioner on the basis of the selection committee which he claims to have placed he was selected and issued appointment order on 25.4.2010.

Prayer in the present petition is for a direction to the second respondent, District Inspector of Schools, Deoria to pass appropriate order on the papers submitted by the Principal of the

College regarding selection in that regard.

Sri Vinod Kumar Singh, who appears for the third respondent submits that the entire exercise which is being stated to be undertaken at the end of fourth respondent, Principal of the institution in question is a farce particularly for the reason that no prior approval as per the Regulation 101 of the Chapter-III of the U.P. Intermediate Education Act, 1921 was taken and further according to him there has been no selection and even the theory which is being sought to be propounded by the writ petitioner that he had been accorded appointment on 25.4.2010 is also not liable to be acceded to particularly when there was no prior approval or even in fact an approval of the director also. He further submits that the appointment of the writ petitioner is per se illegal. Learned Standing Counsel has also adopted the submission of Sri Vinod Kumar Singh.

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

The relief which is being sought in the present writ petition is for a taking decision on the papers submitted by the Principal of the College to the second respondent, District Inspector of Schools, Deoria for taking decision.

This Court at this stage, is not venturing into the nature of the appointment of the writ petitioner particularly in view of the fact that the writ petitioner claims to have been appointed in the year 2010 and he is approached the court in the year 2013 after a period of 13 years thus this Court in the present case is not in a position to issue any positive mandamus to the writ petition leaving it open to the writ petitioner to approach the second respondent, District Inspector of Schools, Deoria for consideration of his claim and in case the second respondent, District Inspector of Schools, Deoria receives such type of communication/motion at the end of the writ petitioners then it shall take appropriate action with most expedition preferably within a period of three months from the date of production of the certified copy of the order, after putting to notice the third and fourth respondent while bearing in mind the following fundamental and core issues:-(a) the total number of sanctioned strength (b)total number of vacancies (c) approval to be required as per the provisions contained under the U.P. Intermediate Education Act, 1921 (d) the nature of the appointment of the writ petitioner adherence of the Rules as well as the approval if any and if not its impact and also the issue with regard to the objection of the learned counsel for the respondent with regard to delay in approaching the court that too being

inordinate and unexplained in the light of the judgment in the case of **Rushaibai Jagdish vs. Bhavnagar Munispal Corporation JD 2022 (5) SC 470.**

Needless to point out that the writ petition 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 gone into the merits of the case.

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

Order Date :- 19.10.2023

piyush