

Court No. - 35

Case :- WRIT - A No. - 16048 of 2023

Petitioner :- Ashesh Kumar Choudhary

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

Counsel for Petitioner :- Shashi Kant Upadhyay

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

Heard Sri Shashi Kant Upadhyay, learned counsel for the petitioner and Sri Shailendra Singh, learned Standing Counsel, who appears for respondents no.1 to 4.

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

The case of the writ petitioner is that the fifth respondent, Shaheed Madhuban Karamad Inter College, Khoribari, Deoria, District Deoria is an institution recognised under the provisions of U.P. Intermediate Education Act, 1921 and the provisions of U.P. Act No.24 of 1971 stands applicable.

As per the writ petitioner, he happens to be appointed as a Lecturer in subject Physics on 16.7.1991 approval whereof has been granted by the District Inspector of Schools, Deoria on 3.8.1991. He further claims to have been regularised on 12.5.2005 and consequent to the retirement of one Sri Girja Shankar Mishra, Principal of the institution in question on 31.3.2022, the writ petitioner claims to have been made the Officiating Principal however on the basis of certain frivolous complaint the person who is junior to the writ petitioner, Sri Ashok Kumar Rai, had been allowed to officiate on the post of the Officiating Principal compelled with these circumstances the writ petitioner preferred **Writ-A No.14535 of 2022, Ashesh Kumar Choudhary vs. State of U.P. and 4** others which came to be disposed of directing the second respondent with the said writ petition to decide the claim of the writ petitioner which in turn on 14.11.2022 came to be decided by the District Inspector of Schools, Deoria in favour of the writ petitioner and the signature of the writ petitioner was attested on 18.11.2022 however the writ petitioner has not been entitled to payment of salary despite the fact that the Manager of the Institution in question has corresponded with the District Inspector

of Schools, Deoria.

Prayer in the present petition is for a direction to the respondents to ensure payment of salary.

Sri Shailendra Singh, learned Standing Counsel who appears for the State Official respondent submits that the issue as to whether the writ petitioner is entitled to salary post passing of the order dated 14.11.2022 and the attestation of the signature on 18.11.2022 needs to be decided by the third respondent, District Inspector of Schools, Deoria thus according to him the writ petitioner may represent his cause before the third respondent and he does not propose to file any response to the writ petition.

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

Considering the submissions of the rival parties as well as stand taken by them, the writ petition is being disposed off without seeking any response from the respondents granting liberty to the writ petitioner to prefer a comprehensive representation along with the self-attested copy of the writ petition before the third respondent, District Inspector of Schools, Deoria, who shall on the receipt of the same, the third respondent shall put to notice the fifth respondent and thereafter proceed to decide the entitlement of the petitioner strictly in accordance with law within a period of one month from the date of presentation of the certified copy of the order bearing in mind the law as available on land.

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

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