

Court No. - 35

Case :- WRIT - A No. - 16505 of 2023

Petitioner :- Jitendra Pratap Singh And Another

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

Counsel for Petitioner :- Gopal Ji Rai

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

Heard Sri Gopal Ji Rai, learned counsel for the writ petitioner, Sri Pradeep Kumar Shahi, learned Additional Chief Standing Counsel, who appears for the respondent nos.1, 2 and 3.

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

The case of the writ petitioner is that there is an institution, namely, Shri Shrinath Inter College, Gadmalpur, Sahulai, District Ballia, which is recognized under the provisions of U.P. Intermediate Education Act, 1921 and the Payment of Salary Act, 1971 stands applicable. It is further the case of the writ petitioner that pursuant to the exercise under the directions of this Court in Writ Petition No.23607 of 2010, Dhruv Narayan Singh vs. State of U.P., the Educational Authorities were put to task to determine the number of vacancies vis-a-vis students in the particular institution. It is further the case of the writ petitioner as portrayed in paragraph nos. 7 and 8 that after determination it was found that there are three posts of Class-III employees in the institution duly sanctioned however only one is being manned and two are still vacant. It is further the case of the writ petitioner that the fourth respondent corresponded with the second respondent, District Inspector of Schools, Ballia on 18.05.2009 for filling up the Class-III vacancies. However, nothing was done, hence the fourth respondent proceeded to conduct selections and the writ petitioner claims to have been appointed as a Class-III employee on 14.09.2009 and joined on 21.09.2009. It is further the case of the writ petitioner that despite the fact the writ petitioner is working but he has not been paid salary as financial approval has not been accorded.

Prayer in the present petition is for a direction to the second respondent, District Inspector of Schools, Ballia to consider the claim of the writ petitioner for according approval.

Sri Pradeep Kumar Shahi, learned Additional Standing Chief Standing Counsel on the other other hand submits that as per the writ petitioner, the writ petitioner claims to have been appointed in the year, 2009 and he is approaching the Court in the year, 2023 and further mere filing of representation would not extend the period of limitation and according to him, there are series of judgment that delay defeats the justice in the matter of approval. He however submits that let a decision be taken by the second respondent, District Inspector of Schools, Ballia. He further submits that he does not propose to file any response to the writ petition.

Considering the submissions of the rival parties as well as stand taken by them, the writ petition is being disposed of without seeking any response from the respondents granting liberty to the writ petitioner to approach the second respondent, District Inspector of Schools, Ballia by filing a comprehensive representation along with the self-attested copy of the writ petition and on the receipt of the same the second respondent shall decide the claim of the writ petitioner strictly in accordance with law after putting to notice the fourth respondent in writing in advance, while deciding the fundamental issues (a) the number of the sanctioned post; (b) the number of post lying vacant; (c) the issue with regard to the criteria adopted by the fourth respondent for conducting selection; (d) applicability and the compliance of rules; (e) issue of delay; (f) any other ancillary issues.

The said exercise is to be completed within a period of three months from the date of presentation of the certified copy of the order.

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 :- 17.10.2023

N.S.Rathour