

Court No. - 35

Case :- WRIT - A No. - 16503 of 2023

Petitioner :- Pawan Kumar Yadav 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.

1. Heard Sri Gopal Ji Rai, learned counsel for the writ petitioner and Sri Uday Shankar Upadhyaya, learned Standing Counsel who appears for respondents No. 1 to 3.

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

3. The case of the writ petitioner is that the fourth respondent, Shri Shrinath Inter College, Gadmalpur, Sahulai, District Ballia is an institution recognized under the provisions of U.P. Intermediate Education Act, 1921 and the Payment of Salary Act, 1971 stand applicable. As per the writ petitioner, consequent to the exercise undertaken by the State Government in pursuance of the order passed in Writ A No. 26307 of 2010 (Druv Narayan Singh Vs. State of U.P) State Government determined the sanctioned strength of the institution in question according to which eight Class-IV posts and five Class-IV posts are being manned and three are vacant, communication with regard to notifying the vacancy was made to District Inspector of Schools, Ballia, however, nothing crystalized. As per the writ petitioner, on 06.12.2009 an advertisement was published in two newspapers pursuant whereto interviews were held on 23.12.2009 and the writ petitioner claims to have been selected and issued appointment letter on 18.01.2010 and he has been accorded joining on 22.01.2010 as a Class-IV employee, but approval has not been granted.

4. Prayer in the present petition is for a direction to the respondents to consider the claim of the writ petitioner for according approval.

5. Learned Standing Counsel, on the other hand, submits that the issue as to whether the writ petitioner is entitled to be accorded approval of this appointment is a matter which is to be gone into at first instance by the second respondent, District Inspector of Schools, and the writ petitioner may represent his cause before the third respondent. He further submits that he does not propose to

file any response to the writ petition.

6. Considering the submission of the rival parties as well as the stand taken by them, the writ petition is being disposed of without seeking any response from the respondent granting liberty to the writ petitioner to prefer a comprehensive representation before the second respondent, District Inspector of Schools, Ballia along with self attested copy of the writ petition and on the receipt of the same the third respondent shall put to notice the fourth respondent in advance in writing and thereafter hear the version of the writ petitioner and fourth respondent and proceed to decide the entitlement of the writ petitioner within a period of three months from the date of production of certified copy of the order bearing in mind the fundamental and the core issues; (a) the nature of the appointment of the writ petitioner as class IV employee; (b) the selection criteria adopted by the selection committee while appointing the writ petitioner in class III post; (c) adherence to the statutes and the Government Orders governing the field; (d) eligibility and the suitability of the petitioner; (e) import and the impact of non-grant of approval while making selections; (f) sanctioned and vacant class III posts; (g) issue of delay in raising the claim; (h) any other issue incidental or ancillary to the same.

7. Needless to point out that this Court has not adjudicated on the merits of the matter.

Order Date :- 17.10.2023

N.S.Rathour