

Court No. - 35

Case :- WRIT - A No. - 16554 of 2023

Petitioner :- Avanish Kumar

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

Counsel for Petitioner :- Jitendra Rana, Shardeshwar Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

1. Instructions filed today is taken on record.
2. Heard Sri Jitendra Rana, learned counsel for the writ petitioner and Sri Santosh Kumar Mishra, learned Standing Counsel who appears for respondents No. 1 to 3.
3. In view of the order which is being proposed to be passed today, notices are not being issued to the fourth and fifth respondents.
4. The case of the writ petitioner is that Sri Brahamdev Tiwari Sanskrit Uchchatar Madhyamik Vidyalaya, Pakdi Veerbhadra, Deoria is an institution recognized, aided and affiliated with Sampurnanand Sanskrit University, Varanasi. As per the writ petitioner, in pursuance of the Government Order dated 24.07.2021 appointment for a short term was being made and the writ petitioner claims to have been selected and a communication had been issued by the District Inspector of Schools, Deoria, third respondent to the fourth respondent Committee of Management for placement of the writ petitioner as Assistant Teacher. It is the case of the writ petitioner that now an order has been passed by the third respondent, District Inspector of Schools, Deoria whereby his engagement has been cancelled.
5. Questioning the order dated 28.06.2023 passed by the third respondent, District Inspector of Schools, Deoria the writ petitioner has preferred the present writ petition.
6. This Court entertained the writ petition on 04.10.2023 requiring the learned Standing Counsel to obtain instructions.
7. Today the instructions have been forwarded by Sri Santosh

Kumar Mishra, learned Standing Counsel under the signature of District Inspector of Schools, Deoria. Learned counsel for the writ petitioner submits that the order in question is per se illegal as it seeks to cancel the engagement of the writ petitioner dated 11.12.2021 without putting the writ petitioner to notice on an allegations which is stigmatic in nature that the writ petitioner illegally withdrew honorarium in that regard.

8. Sri Santosh Kumar Mishra, learned Standing Counsel on the basis of the instructions has invited the attention of the Court towards the Government Order dated 24.07.2021 which is at page 23 relevant extract at page 26 being being clause 17 so as to contend that the dispute pertaining to selection and the service conditions and the issue relating to appointments are to be decided by the Director of Education (Madhyamik), second respondent he, thus, submits that let the writ petitioner approach the second respondent.

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

10. 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 respondents granting liberty to the writ petitioner to prefer a comprehensive representation to second respondent, Director of Education (Secondary), Prayagraj, U.P. who shall on the receipt of the same proceed to decide the claim of the writ petitioner within a period of three weeks strictly in accordance with law. The second respondent, Director of Education (Secondary), Prayagraj, U.P. shall before taking a conscious decision put to notice the fifth and the sixth respondents and seek inputs from them and decide the entitlement of the writ petition.

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

12. This order shall not be treated to be a precedent.

Order Date :- 18.10.2023

Rajesh