

Court No. - 35

Case :- WRIT - A No. - 16680 of 2023

Petitioner :- Lalta Prasad Lohia

Respondent :- District Inspector Of Schools And 3 Others

Counsel for Petitioner :- Adarsh Singh, Indra Raj Singh

Counsel for Respondent :- CSC, Rahul Jain

Hon'ble Vikas Budhwar, J.

Counter affidavit filed today is taken on record.

Heard Shri Indra Raj Singh, learned counsel for the writ petitioner and Shri Vijay Pratap Singh, learned Standing Counsel who appears for the respondent Nos. 1 and 2 and Shri Rahul Jain, learned counsel for the respondent Nos. 3 and 4.

The case of the writ petitioner is that he while being posted as assistant teacher since 04.02.2004 pursuant to the resolution of the committee of management dated 28.07.2023 was placed under suspension on 01.08.2023, the papers whereof was transmitted to the District Inspector of Schools, Kanpur Nagar, first respondent for approval and the same has been approved on 30.08.2023.

Questioning the said order, the writ petitioner has been filed the present petition.

This Court entertained the writ petition while issuing notices and seeking response. Order whereof is quoted hereinunder:

"The contention of the learned counsel for the writ petitioner is that though the writ petitioner was placed under suspension on 01.08.2023 on the basis of the resolution of the Committee of Management dated 28.07.2023. However, while drawing attention towards the order impugned of the District Inspector of Schools, Kanpur Nagar, first respondent, it is being sought to be argued

that the hearing was concluded on 16.08.2023, as apparent from Page-33, Paragraph-2, Line-2, however, while further inviting the attention of this Court at Page-34, 3rd paragraph, it is being sought to be argued that even post conclusion of the hearing on 18.08.2023, certain documents were put to service to negate his claim and according to him, no charge sheet whatsoever has served upon the writ petitioner, as he seeks to rely upon paragraph-11 of the writ petition and while further drawing attention towards the enquiry report, which is Annexure-7 at page-41, reference whereof has been given in paragraph-12, it is further argued that the entire enquiry report holds the writ petitioner guilty without therebeing any service of the charge sheet. He seeks that the order stands vitiated on the aforesaid grounds.

Since the writ of certiorari is being sought, let the response be filed by the respondents.

Sri Shailendra Singh, learned Standing Counsel appears for the Respondent Nos. 1 and 2.

Issue notice to Respondent Nos. 3 and 4.

Steps be taken by tomorrow.

Counter Affidavit be filed by 16.11.2023. Rejoinder, if any, may be filed by 21.11.2023.

Affidavit of service shall be filed on the next date fixed.

Put up this case as a fresh case on 22.11.2023."

Shri Rahul Jain has filed counter affidavit on behalf of the respondent Nos. 3 and 4 which is available on record.

Learned counsel for the writ petitioner submits that he does not propose to file any rejoinder. The principal contention of the learned counsel for the writ petitioner is that the impugned order dated 30.08.2023 of the first respondent, District Inspector of Schools, Kanpur Nagar cannot be sustained, particularly, in view

of the fact that now post submission of the inquiry report, a resolution is stated to have been passed on 04.10.2023 by the committee of management for withholding of three increments. He submits that once a minor punishment is being sought to be imposed and as per the relevant statute, suspension is only to be resorted when major punishment is to be inflicted and once the inquiry proceedings is over then there is no question of any tampering at the end of the writ petitioner. He submits that the order in question be set aside.

Shri Rahul Jain at this juncture does not dispute the said fact, however, he further submits that since an ultimate punishment therefore which is being resolved to be passed by way of a resolution of the committee of management needs to be approved, thus, according to him a direction be issued to the District Inspector of Schools, Kanpur Nagar to pass appropriate orders in this regard.

Considering the submissions of the rival parties as well as stand taken by them, the writ petition is being disposed off requiring the first respondent, District Inspector of Schools, Kanpur Nagar to act in accordance with the statute regarding approval/disapproval for proposing to impose punishment pursuant to the resolution dated 04.10.2023. The writ petitioner as well as the respondent No. 3 shall be put to notice in that regard and it is open for the parties to approach the District Inspector of Schools, Kanpur Nagar who shall after fixing date and after hearing the parties, proceed to decide the matter within a period of six weeks from the date of presentation of the certified copy of the order. Consequently, the order dated 30.08.2023 passed by the District Inspector of Schools, Kanpur Nagar is set aside. Natural consequences shall follow.

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

Order Date :- 22.11.2023

A. Prajapati