

Court No. - 40

Case :- WRIT - C No. - 34894 of 2023

Petitioner :- Mehraj Ali And 3 Others

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

Counsel for Petitioner :- Pradhumn Kumar Pandey, Anoop Kumar Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard learned counsel for the petitioner and Ms. Uttara Bahuguna, learned Additional Chief Standing Counsel for the State-respondents.
2. Present writ petition is preferred for the following principal relief:

"I. Issue a writ, order or direction in the nature of mandamus directing the respondent no.4 to stop the proposal of reconstruction work of Primary School, Village Bihari, Block Sadar, District Muazaffar Nagar and further be pleased to direct the respondent No.2 to establish/ construct the primary school at any suitable place of Village Bihari Block Sadar, District Muazaffar Nagar."

3. Learned Additional Chief Standing Counsel has raised an objection regarding maintainability of the writ petition on the ground that the first petitioner had earlier preferred Public Interest Litigation (PIL) No.1434 of 2023 (Mehraj Ali vs. State of U.P. and 3 others), wherein he had claimed for espousing the cause of public at large and a Division Bench of this Court vide order dated 05.07.2023 had proceeded to dispose of the writ petition permitting the petitioner to file a representation before the District Magistrate. Now the petitioner has approached to this Court in individual capacity for the same cause of action, which is not permissible in law. Even though in response to the order passed by the Writ Court, the authority has already decided the claim, which is not assailed and therefore, the writ petition is liable to be dismissed with exemplary cost.

4. Considering the objection of learned Additional Chief Standing Counsel once the Court is inclined to dismiss the writ petition with exemplary cost then learned counsel for the petitioner states that the present writ petition may be dismissed as not pressed.

5. Accordingly, the writ petition is dismissed as not pressed.

Order Date :- 2.12.2023

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