

Court No. - 36

Case :- WRIT - A No. - 17021 of 2023

Petitioner :- C/M Janta Kramottar Junior High School And Another

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

Counsel for Petitioner :- Himanshu Agrawal, Ajay Kumar Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Manjive Shukla, J.

1. Heard Sri Sameer Sharma, learned Senior Advocate assisted by Sri Himanshu Agrawal, learned counsel appearing for the petitioners and learned Standing Counsel appearing for the Respondents No. 1, 2 and 3 as well as Sri Asutosh Upadhyay, learned counsel appearing for the Respondent No. 4.

2. Petitioners have filed this writ petition inter-alia praying therein for a direction from this court thereby commanding Respondent No. 3 i.e. District Basic Education Officer, Azamgarh to consider and decide the petitioners' representation dated 19.08.2023.

3. Learned Senior Advocate appearing for the petitioners has submitted that petitioners have never given their consent for transfer of Respondent No. 4 from the petitioners' institution and it appears that Respondent No. 4 by making forged signature of Respondent No. 2 has presented papers for his transfer before the District Basic Education Officer, District Azamgarh and thereafter transfer order has been issued thereby Respondent No. 4 has been transferred from the petitioners' institution to another institution.

4. Learned Senior Advocate appearing for the petitioners has further submitted that for the first time, petitioners came to know about the transfer of Respondent No. 4 through the letter dated 13.08.2023 whereby District Basic Education Officer directed the Petitioner No. 2 to relieve the Respondent No. 4 from the institution pursuant to his transfer made vide order dated 28.06.2023. Petitioners have already submitted their reply before the District Basic Education Officer, Azamgarh and it appears that the District Basic Education Officer, Azamgarh has also issued notice to Petitioner No. 2 vide letter dated 1.09.2023 whereby he has been required to appear in the hearing of the matter.

5. On the other hand, learned Standing Counsel appearing for the Respondents No. 1, 2 and 3 has submitted that since the District Basic Education Officer, Azamgarh is already seized with the matter, therefore, it would be in the fitness of things if a direction is issued by this court commanding the District Basic Education Officer, Azamgarh to take a decision in the matter after affording opportunity of hearing to petitioners as well as Respondent No. 4.

6. Learned counsel appearing for the Respondent No. 4 also does not have any objection if the matter is finally decided by the District Basic Education Officer, Azamgarh.

7. Learned Senior Advocate at this stage has submitted that the District Basic Education Officer, Azamgarh may also be directed to take into account provisions made under Rule 18 of the Rules of 1978 while deciding the matter.

8. In view of the aforesaid submissions advanced by learned counsels appearing for the parties, this writ petition is finally ***disposed of*** with a direction to District Basic Education Officer, Azamgarh to finally decide the matter pursuant to notice dated 1.09.2023 after providing opportunity of hearing to all the concerned parties expeditiously preferably within a period of one month from the date of presentation of certified copy of this order.

9. It is also provided that till the final decision is taken by the District Basic Education Officer, Azamgarh, petitioners shall not be compelled to relieve Respondent No. 4 from the petitioners' institution.

Order Date :- 18.10.2023

A. Mandhani