

Court No. - 35

Case :- WRIT - A No. - 17131 of 2023

Petitioner :- Brijesh Kumar

Respondent :- Union Of India And 3 Others

Counsel for Petitioner :- Rajnish Kumar Srivastava, Siddharth Srivastava

Counsel for Respondent :- A.S.G.I., Rajesh Kumar Vidyarthi

Hon'ble Vikas Budhwar, J.

Heard Sri Rajnish Kumar Srivastava, learned counsel for the writ petitioner as well as Sri Rajesh Kumar Vidyarthi, learned counsel for the first respondent and Sri H.N. Pandey, who according to the instructions received by him is in the possession of the brief itself through its client though he has now been impleaded as a party in the writ petition however he is being heard as an intervenor.

The case of the writ petitioner is that there happens to be an institution by the name of D.A.V. Senior Secondary Public School, N.T.P.C. Rihandnagar P.O. Bijpur, District Sonbhadra. The writ petitioner claims that a recruitment exercise was undertaken for the post of Lower Division Clerk (L.D.C.) and he was selected and thereafter an appointment order was issued however now the status of the writ petitioner is being transformed from a regular to an ad hoc/fixed tenure.

Prayer in the present petition is for a direction for quashing of the order dated 16.8.2023 whereby his nature of appointment has been unilaterally and against the rules altered.

Sri Rajesh Kumar Vidyarthi and Sri H.N. Pandey, submit that the institution in question whereat the writ petitioner claims to be working and selected is a purely private institution and not aided by State which is not amenable to Article 226 of the Constitution of India as it does not have any statutory flavour. They seek to rely upon the judgement in the case of **St. Marys Education Society & another vs. Rajendra Prasad Bhargava & others reported in 2022 Law Suit (SC) 994.**

Confronted with the said situation learned counsel for the writ petitioner could not dispute the said proposition of law. However he submits that the liberty be accorded to the writ petitioner to take

appropriate proceedings.

To such a submission, learned counsel for the respondents have no objection.

Considering the submissions of the rival parties as well as stand taken by them, the writ petition is being **consigned to record** leaving it open to the writ petitioner to draw appropriate proceedings as admissible and permissible under law and this Court has no reason to believe that the same shall be decided with most expedition in that regard.

Order Date :- 30.10.2023

piyush