

Court No. - 35

Case :- WRIT - A No. - 17567 of 2023

Petitioner :- C/M Tewari Jwala Prasad Arya Kanya Inter College
And Another

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

Counsel for Petitioner :- Sanjeev Singh, Arvind Kumar Srivastava

Counsel for Respondent :- C.S.C., Ashok Kumar Yadav

Hon'ble Vikas Budhwar, J.

Heard Sri Sanjeev Singh, along with Sri Arvind Kumar Srivastava, learned counsel for the petitioner as well as Sri Ajeet Kumar Singh, learned Additional Chief Standing Counsel, who appears for respondents no. 1, 2 and 3 and Sri Vinod Kumar Singh holding brief of Sri Vibhanshu Vaibhav, Yadav, learned counsel for the respondent no.4.

The case of the writ petitioner is that it is an institution, Tewari Jwala Prasad Arya Kanya Inter College, Etawah which is an institution recognised under the provisions of U.P. Intermediate Education Act, 1921 and the provisions of U.P. Act No.24 of 1971 stands applicable.

According to the writ petitioner the fourth respondent, Smt. Manorma Rani, Principal of the institution in question owing to certain allegations were placed under suspension on 9.9.2023 and thereafter followed by a charge sheet dated 9.9.2023/13.9.2023. It is the case of the writ petitioner that as per the provisions contained under Section 16G of the U.P. State Universities Act, 1921 read with Regulation 39 of the Chapter-III of U.P. Intermediate Education Act, 1921 the matter engaged attention for the purposes of approval before the District Inspector of Schools, Etawah, third respondent however, without putting to the writ petitioner to notice only in one line, it has been concluded that the charges are not so grave so as to approve the suspension.

Questioning the order dated 20.9.2023 passed by the third respondent, the writ petitioner is filed the present writ petition.

Learned counsel for the writ petitioner submits that first of all the order in question is in violation of principle of natural justice as though he has not pleaded in any of the paragraph but from the

perusal of the order in question it will reveal that the same is an ex parte order. He further submits that once a charge sheet has been issued containing charges, though in the matter of approval/disapproval a detailed inquiry is not required to be undergone by the District Inspector of Schools but a prima facie finding is to be recorded after perusal of the record as to whether the charges are grave enough to continue with the suspension or not. According to him herein the present case the said exercise is completely lacking particularly when without even recording a prima facie opinion about the same it has been held that the charges are not grave. According to him the order in question be set aside matter be remitted back.

Sri Vinod Kumar Singh holding brief of Sri Vibhanshu Vaibhav, has gracefully submitted that from perusal of the order in question it is apparent that the writ petitioner was not put to notice. However it is submits that on this ground of matter be remitted back with the rider that a date be fixed within a short span and after hearing the writ petitioner and the fourth respondent final be passed.

Learned Additional Chief Standing Counsel has no objection to the same.

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

Considering the submissions of the rival parties as well as stand taken by them, the order dated 20.9.2023 is set aside matter stands remitted back to the third respondent, District Inspector of Schools, District Etawah to decide the matter afresh after hearing the writ petitioner and the fourth respondent. The District Inspector of Schools Etawah shall fix a date in the fourth week of November, 2023. On that date the writ petitioner and the fourth respondent shall go with their versions, versions be exchanged and orders be passed by 8th of December, 2023 in accordance with law.

Needless to point out that the writ petition has been decided without seeking any response from the respondents. Thus, passing of this order may not be construed to an expression that this Court has gone into the merits of the case.

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

Order Date :- 3.11.2023/piyush