

Court No. - 35

Case :- WRIT - A No. - 19000 of 2023

Petitioner :- C/M Kunwar Ranjeet Singh Inter College And Another

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Shailesh Kumar Shukla

Counsel for Respondent :- C.S.C.,Hritudhwaj Pratap Sahi,Samarath Singh,Sankalp Narain

Hon'ble Vikas Budhwar,J.

Heard Sri Shailesh Kumar Shukla, learned counsel for the petitioners, Sri P.K. Shahi, the learned Addl. Chief Standing Counsel, who appears for Respondents 1, 2 and 3 and Sri Samarath Singh for Respondents 4 and 5.

The case of the writ petitioners is that it is an Institution recognized under the provisions of U.P. Intermediate Education Act, 1921 and the provisions of U.P. Act No.24 of 1971 stand applicable. It is further the case of the writ petitioner that the fifth respondent Sri Om Bihari, who was working as an Assistant Clerk, committed certain acts and omissions, which were unbecoming, pursuant where to the Committee of Management of the Institution in question, the writ petitioners initiated certain proceedings, a criminal case is also stated to have been lodged against the fifth respondent and he was also confined in jail. Just before the date of retirement of the fifth respondent, 31.07.2023, the writ petitioners claim to have suspended the fifth respondent on 21.07.2023 followed by departmental charge sheet dated 28.07.2023 and a constitution of a Three-Member Enquiry Committee. When the matter traveled to the District Inspector of Schools, Bareilly, District Bareilly for according approval the suspension of the fifth respondent, then the same stands disapproved by virtue of the order dated 05.09.2023.

Questioning the said order, the writ petitioner, the Committee of Management of the Institution in question has preferred the present petition.

Sri Shailesh Kumar Shukla, learned counsel for the Committee of Management, the writ petitioner, submits that the order dated 05.09.2023 disapproving the suspension of the fifth respondent suffers from glaring infirmities and illegalities, particularly when there was serious charges against the fifth respondent, which would entail major penalty, as the fifth respondent claimed

monetary benefits, which were not entitled to be extended to it once, criminal case is also pending in that regard. He also submits that proper opportunity was not accorded to the Committee of Management and even on the merits, the District Inspector of Schools at the stage of approval/ disapproval has gone into, which is impermissible. He seeks to rely upon the decision in the case of Writ-A No.12213 of 2016, *C/M Shri Gyan Chandra Jain Vaidya Inter College and Another Vs. State of U.P. and others*, decided on 08.04.2016, and Writ-A No.56244 of 2016, *C/M DPSN Inter College and Another Vs. State of U.P. and others*, decided on 29.01.2017.

Countering the said submission, Sri Samarath Singh, learned counsel for the Respondent No. 4 and 5 submits that taking the case of the writ petitioner, Committee of Management on face value, then too the writ petitioners are not entitled to relief, particularly in view of the fact that the fifth respondent stands retired on 31.07.2023 and the order which is being subject matter of challenge is an order of suspension, thus post-retirement, even if the matter is remitted back, it will be a futile exercise particularly when the lien of the master and servant relationship has come to an end. He seeks to rely upon a decision in the case of ***Ravindra Singh Rathore Vs. District Inspector of Schools, Etawah, 2004(1) AWC 310*** so as to contend that post-retirement no enquiry proceedings could be initiated.

Sri P.K. Shahi, learned Addl. Chief Standing Counsel has adopted the argument of learned counsel for the fifth respondent.

Having heard learned counsels for the parties and perused of record, this Court is of the opinion that no effective relief can be accorded to the writ petitioner, particularly, when the fifth respondent retired on 31.07.2023. Might be on certain counts, the writ petitioner may be right that the order in question, trenching into the merit, but this Court in the matter, which is before this Court pertaining to suspension is not required to go into the merits of the charges and particularly, this Court is to bear in mind that once the fifth respondent stood retired then the matter cannot be remitted back for fresh decision.

Accordingly the writ petition is **dismissed** in so far as the issue relatable to the suspension of the fifth respondent is concerned.

Order Date :- 11.12.2023

N.S.Rathour