

**Court No. - 35**

**Case :-** WRIT - A No. - 17433 of 2023

**Petitioner :-** Madhur Lata Verma

**Respondent :-** State Of U.P. And 5 Others

**Counsel for Petitioner :-** R.P.S. Chauhan, Raj Kapoor Upadhyay

**Counsel for Respondent :-** C.S.C.

**Hon'ble Vikas Budhwar, J.**

1. Heard Sri R.P.S. Chauhan, learned counsel for the writ petitioner and Sri Shailendra Singh, learned Standing Counsel who appears for respondents No. 1 to 4.

2. The writ petitioner herein had earlier filed Writ Petition No. 12990 of 2023 (Madhur Lal Verma Vs. State of U.P.) questioning the order dated 30.06.2023 whereby the writ petitioner had been transferred from J.P. Inter College, Campierganj, Gorakhpur to Adarsh Higher Secondary School, Bargadva, Basti as well as the sixth respondent herein who was also a sixth respondent in the said writ petition has been transferred on 30.06.2023 from Lala Jangi Lal Inter College, Kohndar, District Prayagraj to G.R.S. Inter College, Basti, fifth respondent institution

3. This Court on 18.08.2023 proceeded to pass the following order.-

*"Supplementary affidavit filed today is taken on record.*

*Heard Sri R.P.S. Chauhan, learned counsel for the writ petitioner and Sri Santosh Kumar, learned Standing Counsel who appears for respondents No. 1 to 4.*

*In view of the order which is being proposed to be passed today, notices are not being issued to the fifth and sixth respondents.*

*The case of the writ petitioner is that he was selected as Assistant Teacher in Hindi in pursuance of the recruitment exercise undertaken by U.P. Secondary Education Service Selection Board, Prayagraj and she was allotted J.P. Inter College, Campierganj, Gorakhpur on 17.10.2018 and the posting order was issued on 30.10.2018 and the writ petitioner joined on 19.11.2018. It is further the case of the writ petitioner that a transfer policy has been floated by the respondents whereby pursuant to the submission of the online request for being transferred there are certain criteria earmarked pursuant where to the co-efficient is to be awarded. Learned counsel for the writ petitioner has invited the attention of the Court towards Annexure at page 33 reference whereof has been made in para 8 of the writ petition which happens to be the*

transfer the criteria on the basis whereof marks are to be awarded for according transfer and while further inviting attention towards page 34 clause 17 of item no. 4, page 35 sub-clause 10 of clause 17 it is being sought to be contended that though under both the criteria, the writ petitioner has been awarded marks but insofar as the criteria no. 13 which entitles 5% marks with regard to the results being 60% to 80% in the institution where at the incumbent is imparting education the writ petitioner is entitled to 5 marks in this regard as per the criteria therein and the choice which she seeks, learned counsel for the writ petitioner has also invited the attention of the Court towards page 64 which happens to be the order of the third respondent, Additional Educational Director, Secondary Education, U.P., Prayagraj whereby the writ petitioner has been transferred from J.P. Inter College, Campierganj, Gorakhpur to Aadarsh H.S.S. Bargadava, Basti as whereas the sixth respondent has been transferred on 30.06.2023 from Lala Jangi to G.R.S. Inter College, Basti, fifth respondent. The case of the writ petitioner is that the fifth respondent has been award 112 co-efficient marks whereas the writ petitioner is entitled to 115 co-efficient marks, the writ petitioner has also invited the attention of the Court towards page 73 of the paper book which happens to be a representation preferred by the writ petitioner before the third respondent on 03.07.2023.

Prayer in the present petition is for quashing the order dated 30.06.2023 as referred to above. Prayer has also been made for disposal of the representation dated 03.07.2023.

Sri Santosh Kumar, learned Standing Counsel, on the other hand, submits that the issue as to whether the writ petitioner was rightly awarded co-efficient marks is to be determined at the level of the third respondent at the first instance, thus, this Court may not undertake the task of going into the merits of the matter leaving it open for the writ petitioner to represent his cause before the third respondent by filing representation.

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

Considering the submission of the rival parties as well as the stand taken by them, the writ petition is being disposed of without seeking any response from the respondents granting liberty to the writ petitioner to prefer a comprehensive representation before the third respondent along with the self attested copy of the writ petitioner and on the receipt of the same the third respondent shall endeavour to decide the same strictly in accordance with law within a period of three weeks from the date of production of certified copy of the order, of course, putting to notice the fifth and the sixth respondents in advance in writing.

Needless to point out that the writ petition has been decided without seeking any response and without representation of the fifth and sixth respondents, thus, passing of this order may not be construed to be an expression that this Court has adjudicated the matter on merits."

4. Pursuant to the representation preferred by the writ petitioner along with the certified copy of the order which is annexed as Annexure 10 at page 81 of the paper book reference whereof has been given in paragraph 23 of the writ petition now the Additional Director of Education, Uttar Pradesh, Prayagraj has proceeded to negate the claim of the writ petitioner on 08.09.2023 on the ground that since the writ petitioner had not submitted the required documents online within the time stipulated herein, thus, he is not entitled to co-efficient marks which in total, maximum is 5 with relation to the results being 60% to 80% in the institution where at the incumbent is imparting education. Learned counsel for the writ petitioner has invited the attention of the Court towards Annexure 6 starting from page 63 reference whereof has been given in paragraph 16 of the writ petition so as to contend that the writ petitioner on 16.07.2021 had forwarded the entire documents to the Manager/Principal of the institution in question offline with the request that permission be accorded to transmit the document online and while further inviting the attention towards item No. 9 being the annexures the results of the subject Hindi and their description was given and the writ petitioner further has invited the attention of the Court towards page 71 so as to contend that the results of the subject Hindi was 70.23 (60-80%) and further the same was forwarded. Learned counsel for the writ petitioner has further invited the attention of the Court towards the policy decision of the State Government dated 19.06.2023 Annexure 12 at page 88 of the paper book while further inviting the attention towards clause 2.2 that for the purposes of transfer offline method was also resorted to and the said policy decision dated 19.06.2023 was made the basis for determining the criteria for making transfers as encapsuled in the transfer orders dated 30.06.2023. The submission of the learned counsel for the writ petitioner is that the said crucial aspects has not been dealt with and gone into by the third respondent while passing the order in question.

5. Prayer in the present petition is for quashing of the order dated 30.06.2023 as well as the order dated 08.09.2023 of the third respondent.

6. Sri Shailendra Singh, learned Standing Counsel who appears for respondents submits that though it is a stand of the writ petitioner that he had submitted the document offline on 16.07.2021 through

the Principal/Manager of the institution in question, however, as per the time schedule as encapsulated in the scheme in question, the last date of submission of the form was four days i.e. 12.07.2021 to 15.07.2021 and here as per the writ petitioner the same was submitted on 16.07.2021. He further submits that the issue needs to be decided by the third respondent in the light of the policy decision dated 19.06.2023. According to him whatever is the grievance of the writ petitioner, let the writ petitioner approach the third respondent by filing a representation and the order so challenged herein may not come in the way of disposal of the claim of the writ petitioner.

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

8. Considering the submission of the rival parties as well as the stand taken by them in particular the fact that the writ petitioner seeks to approach the third respondent which is not being opposed by the learned Standing Counsel, the writ petitioner may approach the third respondent by filing a comprehensive representation taking all the legal and factual grounds along with the self attested copy of the writ petition and on the receipt of the same the third respondent shall consider the claim of the writ petitioner strictly in accordance with law after putting to notice the fifth and the sixth respondents bearing in mind the import and the impact of the policy decision dated 19.06.2023 the claim of the writ petitioner that she had submitted the option offline on 16.07.2021 and the same was liable to be accepted in view of the policy decision dated 19.06.2023 and online and offline both were permissible for submission of documents. It is expected that the third respondent shall take decision within a period of six weeks from the date of production of certified copy of the order and the order passed earlier by it dated 08.09.2023 shall abide by the final orders to be passed by it and not come in the way of passing a fresh order.

9. With the aforesaid observations, the writ petition stands disposed of.

**Order Date :- 27.10.2023/Rajesh**