

Court No. - 35

Case :- WRIT - A No. - 17609 of 2023

Petitioner :- Sharad Jaiswal

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Sandeep Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

Heard Sri Sandeep Kumar, learned counsel for the writ petitioner and Sri Shailendra Singh, learned Standing Counsel, who appears for respondents no. 1 and 2.

In view of the order, which is being proposed to be passed today, notices are not being issued to the third respondent.

Learned counsel for the writ petitioner claims that there is an institution, Public Inter College, Manauri, District Prayagraj which is affiliated to U.P. Intermediate Education Act, 1921 and U.P. Act No.24 of 1971 stands applicable. There are 12 sanctioned posts of Class-IV employees determined by the State Government and three incumbents as mentioned in para 6 of the writ petition have retired. Permission was sought for making recruitment for the said three posts before the District Inspector of Schools, Prayagraj, second respondent but no permission was accorded, however the institution in question published an advertisement on 6.8.2013, 15 applicants applied and the writ petitioner claims to have been selected and issued an appointment order on 25.8.2013. Papers have been submitted before the District Inspector of Schools, Prayagraj but no action has been taken.

Prayer in the present petition is to take a suitable decision on the representation/claim of the writ petitioner.

Learned Standing Counsel submits that the issues with the writ petitioner seeks to raise needs determination at the first instance by the District Inspector of Schools, Prayagraj, second respondent the writ petitioner may approach before the said authority.

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 writ petition is being disposed off without seeking any response from the respondents granting liberty to the writ petitioner to prefer a comprehensive representation along with the self-attested copy of the writ petition before the second respondent, District Inspector of Schools, Prayagraj, who shall on the receipt of the same, put to notice the third respondent and thereafter determine the entitlement of the writ petitioner strictly in accordance with law within a period of three months from the date of presentation of the certified copy of the order bearing in mind the total number sanctioned strength, total number vacancy, approval if granted, the adherence to the rules for making selection and the issue with regard to the delay as raised by the learned counsel for the writ petitioner as well as delay in approaching the court that too being inordinate and unexplained in the light of the judgment in the case of **Rushaibai Jagdish vs. Bhavnagar Municipal Corporation JT 2022 (5) SC 470**.

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

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