

Court No. - 35

Case :- WRIT - A No. - 18174 of 2023

Petitioner :- Ravi Shankar

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

Counsel for Petitioner :- Siddharth Khare, Sr. Advocate

Counsel for Respondent :- C.S.C., Chandan Kumar Singh

Hon'ble Vikas Budhwar, J.

Heard Sri Ashok Khare, learned Senior Counsel assisted by Shri Jigar Khare, learned counsel for the petitioner and Sri H.K. Shukla, learned Standing Counsel for respondent No. 1 and 2 as well as V.K. Singh, learned Senior Advocate assisted by Sri Chandan Kumar Singh for the third respondent.

A Writ A No. 13869 of 2023 was preferred by the writ petitioner herein questioning the order dated 22.07.2023 passed by the second respondent, District Inspector of Schools, Gautam Budh Nagar whereby it is sought to approve the suspension of the writ petitioner. The said writ petition was entertained and this Court passed the following the orders on 22.08.2023:

"Heard Sri Vinod Kumar Singh, learned counsel for the petitioner as well as Sri Ajeet Kumar Singh, learned Addl. Chief Standing Counsel and Sri V.K. Singh, learned Senior Advocate assisted by Sri Chandan Kumar Singh for the third respondent.

The case of the writ petitioner is that the third respondent, C/M Sri Amichand Inter College, Kasna, Gautam Budh Nagar is a recognized institution under the provisions of U.P. Intermediate Education Act, 1921 and the provisions of the U.P. Act No.5 of 1982 and the U.P. Act No.24 of 1971 stand applicable.

It is further the case of the writ petitioner that he was appointed as an Assistant Teacher in the year 2012. However, on account of the suspension of

one Sri Ashok Kumar Dwivedi, the writ petitioner being the senior most was handed over the charge of the Headmaster, however, his signatures were not attested by the District Inspector of Schools, Gautam Budh Nagar. It is further the case of the writ petitioner that he was placed under suspension on 15.04.2023 on certain allegations. A charge sheet was served upon the writ petitioner dated 18.05.2023 containing as many as four charges, and thereafter Enquiry Committee was also constituted. However, the District Inspector of Schools, Gautam Budh Nagar by order dated 22.07.2023 has approved the suspension of the writ petitioner.

Questioning the order dated 22.07.2023 approving the suspension of the writ petitioner, the writ petitioner has filed the present writ petition.

Sri Vinod Kumar Singh, learned counsel for the petitioner submits that the order in question has been passed in violation of the principles of natural justice, while referring to paragraph-25 of the writ petition. He submits that had the writ petition been heard, he would have demonstrated that there is no reason to approve the suspension order.

Sri V.K. Singh, learned Senior Counsel, who appears for the third respondent submits that from a close reading of the order impugned in the writ petition, it is apparent that the same has been passed without hearing the writ petitioner and putting him to notice. He further submits that since the writ petitioner has not been heard, thus the order be set aside, the matter be remitted back to the second respondent, District Inspector of Schools, Gautam Budh Nagar to pass fresh order.

Learned Standing Counsel also adopts the arguments of Sri Singh, learned Senior Counsel.

Since it is admitted to the parties that the order impugned in the writ petition of the second respondent, District Inspector of Schools, Gautam Budh Nagar has been passed in violation of the principles of natural justice, thus the same is not liable to be sustained.

Considering the submissions of the rival parties as well as the stand taken by them, the writ petition is being decided on the following terms:-

- (a) *The order dated 22.07.2023 passed by the second respondent, District Inspector of Schools, Gautam Budh Nagar, is set aside;*
- (b) *Matter is remitted back to the second respondent, District Inspector of Schools, Gautam Budh Nagar;*
- (c) *Consequent to the setting aside the order, the matter is remitted back to the second respondent while fixing 06.09.2023 as the date at 11:00 A.M.*
- (d) *The petitioner as well as the third respondent shall appear and seek furnishing of the documents, which is to be submitted by either the writ petitioner or the third respondent, Committee of Management.*
- (e) *A copy of the same be provided on the same date, i.e. on 06.09.2023.*
- (f) *06.09.2023 is the date fixed for hearing the matter and the Committee of Management and the petitioner shall appear on the said date.*
- (g) *By 15.09.2023, the final orders shall be passed.*

Needless to point out that the writ petitioner is being decided without seeking any response from the respondents, thus passing of this order may not be construed to an expression that this Court has adjudicated the matter on merits and the second respondent shall pass an order with independent application of mind without being influenced or obsessed with any of the observations made hereinabove.

With the aforesaid observation, the writ petition stands partly allowed."

Post remand now an order has been passed by the second respondent, District Inspector of Schools on 15.09.2023 whereby it has approved the suspension of the writ petitioner.

Shri Ashok Khare appearing for the writ petitioner submits that again the same mistake is repeated as the District Inspector of Schools at the stage of approval/disapproval of the suspension order has gone into the merits of the matter while relying the fact

that they were set forth basis charges standing proved against the writ petitioner, he submitted that the said exercise ought not to have been conducted at the end of the District Inspector of Schools.

Shri V.K. Singh, learned Senior Counsel who appears for the respondent No. 3 submits that though the findings of the enquiry report has been recapitulated in the order impugned but the charges stood approved "finds place in the order itself which ought not to have been done as ultimately the appointing authority to take appropriate action in pursuance thereof. He submits that the order be set aside and the order stands remitted back to the second respondent, District Inspector of Schools, Gautum Budh Nagar.

Shri H.K. Shukla, learned Standing Counsel also adopts the arguments of the learned counsel for the respondents.

Considering the submissions of the rival parties as well as the stand taken by them, the writ petition is being decided on the following terms:-

- (a) The order dated 15.09.2023 passed by the second respondent, District Inspector of Schools, Gautam Budh Nagar, is set aside;
- (b) Matter is remitted back to the second respondent, District Inspector of Schools, Gautam Budh Nagar;
- (c) Consequent to the setting aside the order, the matter is remitted back to the second respondent while fixing 06.12.2023 as the date at 11:00 A.M.
- (d) The petitioner as well as the third respondent shall appear and seek furnishing of the documents, which is to be submitted by

either the writ petitioner or the third respondent, Committee of Management.

(e) A copy of the same be provided on the same date, i.e. on 06.12.2023.

(f) 08.12.2023 is the date fixed for hearing the matter and the Committee of Management and the petitioner shall appear on the said date.

(g) By 21.12.2023, the final orders shall be passed.

Needless to point out that the writ petitioner is being decided without seeking any response from the respondents, thus passing of this order may not be construed to an expression that this Court has adjudicated the matter on merits and the second respondent shall pass an order with independent application of mind without being influenced or obsessed with any of the observations made hereinabove.

With the aforesaid observation, the writ petition stands partly **allowed**.

Order Date :- 24.11.2023

A. Prajapati