

Court No. - 35

Case :- WRIT - A No. - 18148 of 2023

Petitioner :- Prof. Dr. Naresh Kumar

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Alok Mishra

Counsel for Respondent :- C.S.C., Rohit Pandey, Sanjeev Kumar Singh

Hon'ble Vikas Budhwar, J.

In Re: Civil Misc. Amendment Application No. 2 of 2023

By means of the present amendment application, amendment has been sought for adding certain paragraphs after paragraph No. 32, grounds and prayer clause.

Since there is no opposition to the amendment application.

Amendment application is allowed.

Let the amendment be carried out during the course of the day.

Order on Petition

1. On the oral request of learned counsel for the writ petitioner, he is permitted to implead Vice Chancellor, Bundelkhand University, Jhansi as respondent No. 8.

2. Heard Sri Alok Mishra, learned counsel for the writ petitioner, Sri Santosh Kumar, learned Standing Counsel who appears for respondents No. 1, 2, 4 and 5, Ms. Tiwari holding brief of Sri Rohit Pandey who appears for respondents No.3 and 8 and Sri Dhananjay holding brief of Sri Sanjeev Kumar Singh, learned counsel who appears for respondents No. 6 and 7.

3. Learned counsel for the rival parties have made a statement at Bar that they do not propose to file any response and the writ petition be decided on the basis of the documents available on record.

4. The case of the writ petitioner is that he happens to be the Principal of the Mathura Prasad Mahavidyalaya, Konch, District Jalaun. According to the writ petitioner on 23.06.2023 the

Manager of the institution in question proceeded to place the writ petitioner under suspension on the allegations of insubordination, financial irregularity, acts and omissions leading to loss sustained by the University, unauthorized absence beyond permissible period and also exhibiting conduct unbecoming of a Principal. Records reveal that the papers relating to the suspension of the writ petitioner was transmitted to the respondent-University and thereafter an order is stated to have been passed on 24.08.2023 under the signatures of the third respondent, Registrar, Bundelkhand University, Jhansi approving the suspension of the writ petitioner.

5. Questioning the said order, the writ petitioner has filed the present writ petition.

6. Learned counsel for the writ petitioner submits that the order dated 24.08.2023 approving the suspension of the writ petitioner passed by the respondent-University cannot be sustained for a single moment particularly in view of the fact that though as per the by-laws/scheme of the institution in question beyond the currency of the term of the Committee of management of the institution in question/lapsing of the period so specified, the Committee of Management had no right to suspend the writ petitioner. He further submits that apart from the same, the order in question even does not recite even a single word with regard to the writ petitioner as to why the suspension is being sought to be approved looking into the back ground of the allegations which have been made in the suspension order. Submission is that though detailed inquiry is not required to be conducted by the respondent-University but at least prima facie, an opinion is to be accorded with respect to continuance of the writ petitioner under suspension particularly in the wake of the decision taken by the Committee of Management of the institution in question. According to him the order in question is in violation of the principles of natural justice as the inputs were being pressed into service were not confronted to him.

7. Sri Dhananjay holding brief of Sri Sanjeev Kumar Singh, learned counsel who appears for respondents No. 6 and 7 being the institution in question, on the other hand, submits that though the order may not be happily worded but from the perusal of the order it appears that there had been an application of mind by the University, however, he could not dispute the fact that the order does not recite the fact regarding the allegation which were made basis of suspension.

8. Ms. Tiwari holding brief of Sri Rohit Pandey, learned counsel who appears for the University had sought to support the order in question but she could not find out even a single recital in the said effect.

9. Sri Santosh Kumar, learned Standing Counsel has adopted the argument of the counsel for respondent No. 6 and 7 and of the University.

10. I have heard the counsel for the parties and perused the record carefully.

11. The Court finds that though allegations have been levelled upon the respondents being unbecoming of a Principal of the institution in the suspension order but there is no recital even worth saying in the order impugned about the same when the provisions contained under Section 35 of the U.P. State Universities Act itself empowers the respondent-University to approve the suspension or even stay the same which contains an implicit condition precedent that there has to be an application of mind and once the application of mind has been made then it should at least be reflected in the order in question, since, the said aspects are completely missing, thus, in the opinion of the Court, the order in question cannot be sustained and liable to be set aside.

12. Accordingly, the writ petition is being decided in the following terms:

(a) the order dated 24.08.2023 passed by the respondent-University be set aside; (b) the matter stands remitted back to the respondent-University to pass fresh order in accordance with law taking into account all all aspects of the matter; (c) the writ petitioner is represented through its counsel, Sri Alok Mishra and the Committee of Management is also represented through its counsel, University by its counsel, thus, the respondent-University shall fix a date in the week commencing 18.12.2023 for hearing and the orders be passed by 05.01.2024; (d) the order shall be strictly in accordance with law dealing with each and every contention so raised by the parties.

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

Order Date :- 7.12.2023

Rajesh