

Court No. - 35

Case :- WRIT - A No. - 18218 of 2023

Petitioner :- Vinay Kumar Gupta

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

Counsel for Petitioner :- Narendra Kumar Chaturvedi

Counsel for Respondent :- CSC

Hon'ble Vikas Budhwar,J.

On the oral request of learned counsel for the writ petitioner, he is permitted to implead the Uttar Pradesh Secondary Education Service Selection Board, Prayagraj as seventh respondent.

Heard Sri Narendra Kumar Chaturvedi, learned counsel for the petitioner and Sri Santosh Kumar Mishra, learned Standing Counsel, who appears for Respondents 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 respondent.

The case of the writ petitioner that his father namely Paras Nath Gupta was employed as a permanent teacher in the respondent No. 5 institution, Smt. Tapeshwari Devi Jaiswal Inter College, Sardaha Bazar, Azamgarh. Consequent to the death of the father of the writ petitioner pursuant to a resolution, he was appointed as assistant teacher, the writ petitioner claims to have been accorded designation of a lecturer and consequent to the superannuation of one Shri Suresh Rai, he was made officiating principal, however according to the writ petitioner, he was placed under suspension on 23.07.2021 and an inquiry committee was directed to be constituted and a week's time was accorded to submit reply. However, according to the writ petitioner, as stated in para 40 of

the writ petition, the resolution of the committee of management proposing to terminate the writ petitioner on 16.08.2021 has not been approved by the Board under Section 21 of the U.P. Act No. 05 of 1982 as prevalent before the enactment of U.P. Act No. 15 of 2023. He, thus, submits that without there being any approval by the Board, no such exercise of dispensing the services of the writ petitioner could have been resorted to.

Though Shri Narendra Kumar Chaturvedi, learned counsel for the writ petitioner has sought quashing of the order dated 16.08.2021, however, he confines in his relief to the extent that now post enactment of U.P. Act No. 15 of 2023, it is the District Inspector of Schools, Azamgarh who has to take a decision with regard to the fact as to whether the proposal of the committee of management to dispense with the services of the writ petitioner had been approved or not.

Shri Santosh Kumar Mishra, learned Standing Counsel for respondent nos. 1 to 4 on the other hand, submits that the issues with the writ petitioner seeks to raise needs determination at the first instance by the third respondent, District Inspector of Schools, who is a competent authority post enactment of Act No. 15 of 2023, he thus submits that writ petitioner may approach the third respondent who shall address the issues which are being sought to be raised. According to him, he does not propose to file any response.

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 third

respondent, who shall address to the claim of the writ petitioner after putting to notice the fifth respondent and if documents are not available with it, summon the documents from the seventh respondent and thereafter proceed to decide the claim of the writ petitioner within a period of three months from the date of presentation of the certified copy of the order.

It is clarified at this stage that the writ petition has been decided on the basis of averments and the arguments advanced by the parties, thus the passing of the order may not be construed to an expression that this Court has gone into the merits of the case, as the third respondent shall address to the claim of the writ petitioner bearing in mind the fact as to whether there is any approval of competent authority regarding proposal of the dispensation of the service of the writ petitioner and other ancillary and incidental issues.

With the aforesaid observation, the writ petition is **disposed off**.

Order Date :- 24.11.2023

A. Prajapati