

Court No. - 35

Case :- WRIT - A No. - 18492 of 2023

Petitioner :- Raghvendra Mishra

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Anjani Kumar Tripathi, Maruti Kumar Tripathi

Counsel for Respondent :- CSC, Akhilesh Chandra Mishra

Hon'ble Vikas Budhwar, J.

1. Heard Sri Maruti Kumar Tripathi, learned counsel for the writ petitioner, Sri Shailendra Singh, learned Standing Counsel who appears who appears for respondents No. 1 to 5 and Sri Akhilesh Mishra, learned counsel who appears for respondent No. 7.

2. In view of the order which is being proposed to be passed today, notices are not being issued to respondents No. 6 and 8.

3. The case of the writ petitioner is that the sixth respondent, Shree Ganesh Pandey Inter College, Kataghar Khajani, District Gorakhpur is an institution recognized under the provisions of U.P. Intermediate Education, 1921 and the provisions of U.P. Act No. 5 of 1982 and 24 of 1971 stand applicable.

4. The writ petitioner claims to possess B.Sc, B.Ed, M.Sc Botany, M.A. Hindi, M.A. Sanskrit, and he was appointed as Assistant Teacher (Biology) on 26.10.2010 and joined the institution in question on 09.11.2010, according to the writ petition a substantive vacancy fell vacant on the post of Lecturer (Hindi) due to retirement of Dr. Shushila Chaturvedi on 31.03.2021, the writ petitioner staked his claim for being accorded promotion, however, the Committee of Management was interested in espousing the cause of one Dr. Satya Prakash Singh which was subject matter of a dispute which was ultimately decided by a Committee headed by the Joint Director of Education, 7th Region, Gorakhpur on 18.08.2023 for according the claim of the writ petitioner. An order is stated to have been passed on 28.08.2023 by the District Inspector of Schools, Gorakhpur. Though the writ petitioner was

anticipating that he would be conferred with the benefit on the promoted post, however, in the meantime on 30.06.2023 the seventh respondent has been transferred to the sixth respondent-institution.

5. Questioning the transfer order dated 30.06.2023 passed by the third respondent, Additional Director of Education (Secondary) U.P. Prayagraj the writ petitioner has filed the writ petition.

6. Learned counsel for the writ petitioner submits that once there happens to be an order in his favour dated 18.08.2023 of a three member committee according his claim for being accorded promotion as Lecturer (Hindi) then it is not open for respondent No. 7 to have transferred in the respondent No. 6 institution he submits that his right of promotion is being jeopardized.

7. Learned Standing Counsel as well as the counsel appearing for the seventh respondent submits that the process for transfer of the seventh respondent in the sixth respondent institution commenced wayback in the year 2021 and, thus, in case, any right was subsequently conferred as claimed by the writ petitioner would not take away the claim of the writ petitioner which even on the said day was not crystallized he also questions the eligibility of the writ petitioner.

8. Sri Shailendra Singh, learned Standing Counsel, on the other hand, submits that the issues which the writ petitioner are raising needs determination at the level of the second respondent, Director of Education (Secondary), U.P., Prayagraj, thus, the writ petitioner may represent his cause before the second respondent and they do not propose to file any response.

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

10. Considering the submission of the rival 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 along with the self attested copy of the writ petition before the second respondent, Director of Education (Secondary), U.P., Prayagraj who shall on the receipt of the same decide the claim of the writ petitioner putting to notice the respondents No. 6 and 8 strictly in

accordance with law bearing in mind the orders dated 18.08.2023 of a three member committee as well as the claim of the seventh respondent that he had been accorded transfer strictly in accordance with law. The writ petitioner has not disputed the fact that the seventh respondent is already working and he is being paid salary in the institution in question as Lecturer (Hindi), thus, this Court is not disturbing his continuance, however, the continuance of the seventh respondent is subject to the final orders to be passed within a period of three months from the date of receipt of the certified copy of the order.

11. Needless to point out that the writ petition is being disposed of without seeking any response from the respondents and thus passing of the order may not be construed to an expression that this Court has adjudicated the matter on merits

Order Date :- 23.11.2023

Rajesh