

Court No. - 35

Case :- WRIT - A No. - 18826 of 2023

Petitioner :- C/M Kisan Inter College

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 H.K. Shukla, learned Standing Counsel, who appears for Respondents 1, 2 and 3.

The case of the writ petitioner is that it is illegally elected committee of management of the institution in question in which by virtue of order dated 22.03.2013 passed by the first respondent, there is one sanctioned post of head clerk and three posts of assistant clerk. In para 6, it has been asserted that out of three posts of assistant clerk only two assistant clerks working and one post is lying vacant. An application was made by the petitioner's institution on 03.07.2018 before the District Inspector of Schools, Mathura, respondent No. 3 for filling up one post of assistant clerk. Since no decision was taken, so the writ petitioner preferred Writ A No. 6562 of 2019 which came to be disposed of on 26.04.2019 directing the authorities to take a decision. However, according to the writ petitioner, on the basis of report submitted by the third respondent, District Inspector of Schools, Mathura the second respondent, Director of Education (Secondary) U.P, at Lucknow accorded permission to the fill up the post on 11.09.2019. Pursuant to the order dated 11.09.2019 of the second respondent, the third respondent granted permission to fill up the post of assistant clerk on 10.10.2019. Pursuant thereto an

advertisement was published wherein on the basis of quality points mark one Shri Dhananjay Saraswat son of Shri Ramakant Saraswat Singh was selected on the post of assistant clerk and a letter was submitted on 18.11.2019 before the third respondent for according approval. Since no approval was accorded so a Writ A No. 962 of 2020 (C/M Kisan Inter College Mathura Vs. State of U.P. and 2 others) was preferred by the writ petitioner which was came to be disposed of on 21.01.2020. The writ petitioner thereafter represented his cause before the authorities, however, the District Inspector of Schools, Mathura, third respondent by virtue of the order dated 16.03.2020 proceeded to negate the claim of the writ petitioner which led to filing of Writ A No. 302 of 2021 in which counter and rejoinder affidavit according to the writ petitioner was exchanged. However, in the counter affidavit an order dated 01.12.2022 passed by the District Inspector of Schools, Mathura was annexed whereby financial approval was negated against which the writ petitioner preferred Writ A No. 6682 of 2023 wherein the order dated 01.12.2022 was set aside. It is further the case of the writ petitioner that the District Inspector of Schools transmitted the matter to the Regional Level Committee Agra, region Agra which returned the matter back to the District Inspector of Schools and thereafter the District Inspector of Schools has forwarded the claim of the writ petitioner before the second respondent, Director of Education (Secondary) U.P, at Lucknow on 06.09.2023.

The contention of the learned counsel for the writ petitioner is that the matter is pending consideration before the second respondent but no decision has been taken.

Prayer in the present petition is for a direction to the second

respondent, Director of Education (Secondary) U.P, at Lucknow to accord consideration to the claim of the writ petitioner.

Shri H.K. Shukla, learned Standing Counsel who appears for the respondents submits that the issue as to whether the approval is to be accorded needs determination at the first instance by the second respondent. Thus, according to him, the writ petitioner be represented his cause before the second respondent. He further submits that he does not propose to file any response.

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, Director of Education (Secondary) U.P, at Lucknow who shall on the receipt of the same, proceed to decide the claim of the petitioner strictly in accordance with law within a period of two months from the date of presentation of the certified copy of the order.

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 :- 8.11.2023

A. Prajapati