

Court No. - 35

Case :- WRIT - A No. - 18274 of 2023

Petitioner :- Shashank Pati Tripathi And Another

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

Counsel for Petitioner :- Hritudhwaj Pratap Sahi, Samarath Singh, Sr. Advocate

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

Heard Shri V.K. Singh, learned Senior Counsel assisted by Shri Samarth Singh, learned counsel for the writ petitioners who are two in number and Shri Pradeep Kumar Shahi, learned Additional Chief Standing Counsel for the respondent Nos. 1 and 2.

In view of the order, which is being proposed to be passed today, notices are not being issued.

The case of the writ petitioners is that the third respondent, Smt. Jaldhari Devi Sanskrit Madhyamik Vidhyalaye, Noonkhar, Deoria is a Sanskrit institution recognised under the provisions of U.P. Board of Secondary Education Act, 2000 and Board of Sanskrit Education Appointment and Conditions of Service of Head of the Institutions Teachers and other Employees of the Institution Rules, 2009 stands applicable.

According to the writ petitioners, there are total 05 teaching post sanctioned, out of which one is being the head master and four out of the assistant teacher, the writ petitioners claim to have been appointed as assistant teachers and approval whereof was accorded by the Director of Education Intermediate U.P. on 02.12.2016, according to the writ petitioners, consequent to the approval order, they were working in post in question,

however, a notice is stated to have been issued by the second respondent, District Inspector of Schools, Deoria requiring the noticees to submit their reply/clarification and in the note No. 3, it was mentioned that clarification is to be submitted within a period of three days and in the meantime, the salary is to be withheld. The said notice according to the writ petitioners has been responded on 06.10.2023, however now again on 12.10.2023, another notice which is based upon sub-inspection has again been issued containing the same conditions as mentioned hereinabove which according to the writ petitioners stand also responded on 16.10.2023.

Prayer in the present petition is for quashing the notices dated 20.09.2023 and 12.10.2023 passed by the District Inspector of Schools, Deoria insofar as it stops salary of the writ petitioners.

Learned Senior Counsel for the writ petitioners submits that such type of noval method could not have been resorted too, particularly, when on one hand, notices were being sought to be issued seeking explanation and simultaneously by virtue of the said order, the salary is being withheld. He submits that after submission of the reply on consideration of the same and order either to stop or to continue with the salary ought to have been passed. He further submits that the orders in question is in violation of the principles of natural justice.

Shri Pradeep Kumar Shahi, learned Chief Additional Standing Counsel on the other hand submits that the perusal of the contents contained in the notice shows that there are various irregularities found in the institution in question as noticed in the notices. He, however, submits that so far as the issue with regard to stopping of the salary concerned the same was not justified in view of the facts of the case, he however submits that notice be treated to be a notice in entirety and the writ

petitioners/committee of management may submit their reply to the same and thereafter orders be passed and the part of order stopping salary be not acted upon.

Having heard the learned counsel for the parties and perusing the record, the Court is of the view that no fruitful purpose would be served in detaining the writ petition, as *prima facie* in the opinion of the Court, the salary could not have been withheld.

Considering the submissions of the rival parties as well as stand taken by them, the writ petition is being disposed off in the following terms:

- a). The notices/orders dated 20.09.2023 and 12.10.2023 passed by the District Inspector of Schools, Deoria insofar as it relates to stoppage of salary of the writ petitioners is set aside.
- b). The writ petitioners may submit their version/reply in addition to what they claim to have been submitted within a period of a week from today.
- c). Orders be passed within a period of three weeks from today after putting to notice the writ petitioners and the third respondent.

Since on technical ground, the writ petition has been decided thus passing of the order may not be construed to be an expression on merits.

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

Order Date :- 28.11.2023

A. Prajapati