

Court No. - 36

Case :- WRIT - A No. - 18465 of 2023

Petitioner :- Manish Kumar Singh

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Prashant Kumar Lal

Counsel for Respondent :- CSC,Ajeet Singh

Hon'ble Manjive Shukla,J.

1. Heard learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondents No. 1 & 2 and Mr. Ajeet Singh, learned counsel appearing for the Respondents No. 3 & 4.

2. Petitioner through this writ petition has challenged the order dated 29.08.2023 passed by the District Basic Education Officer, Kanpur Dehat, whereby direction has been issued to the petitioner to take the charge of the post of Head Master of Primary School, Paraunkh, Block Derapur, District Kanpur Dehat.

3. Learned counsel appearing for the petitioner has submitted that regularly appointed Head Master of the Primary School Paraunkh, Block Derapur, District Kanpur Dehat was transferred in the month of June, 2023 and therefore, the post of Head Master became vacant. Direction was issued to Smt. Richa Gupta to take over charge of the post of Head Master of the School but she refused to take the charge. District Basic Education Officer, Kanpur Dehat thereafter issued the show cause notice on 02.07.2023 to Smt. Richa Gupta and thereby she was required to submit her reply as to why disciplinary proceedings may not be initiated against her for the reason that she has not taken over the charge of the post of Head Master of the school.

4. Learned counsel appearing for the petitioner has argued that till 02.07.2023, Smt. Richa Gupta did not take medical ground for her refusal to take charge of the post of Head Master but later on she has submitted some prescription of her treatment to the authorities and authorities have blindly relied on the said certificate and has passed order on 29.08.2023, whereby petitioner has been directed to take over the charge of the post of Head Master.

5. I have considered the submissions advanced by the learned

counsel appearing for the petitioner and I have also heard the arguments advanced by learned Standing Counsel as well as Mr. Ajeet Singh, learned counsel appearing for the Respondents No. 3 & 4. I find that Smt. Richa Gupta is working in Primary School Paraunkh, Block Derapur, District Kanpur Dehat therefore, unless she has some serious illness, she cannot deny to take over the charge of the post of Head Master of the school as she is the senior most Assistant Teacher.

6. In the aforesaid circumstances, let District Basic Education Officer, Kanpur Dehat consider the entire matter and evaluate the illness of the Respondent No. 5 and thereafter pass necessary order in respect of handing over charge of the post of Head Master either to Smt. Richa Gupta or to petitioner. District Basic Education Officer, Kanpur Dehat while passing order shall also consider as to whether Smt. Richa Gupta on the basis of her illness has ever taken medical leave or prior to issuance of notice dated 02.07.2023 she has ever apprised the authorities of the Department of Basic Education regarding her illness.

7. The aforesaid order shall be passed within a period of 15 days from the date of service of certified copy of this order. With the aforesaid directions writ petition is ***disposed of***.

8. District Basic Education Officer, Kanpur Dehat while passing the order shall also afford opportunity of hearing to Smt. Richa Gupta as well as the petitioner.

Order Date :- 23.11.2023

Gaurav