

Court No. - 35

Case :- WRIT - A No. - 18438 of 2023

Petitioner :- Smt. Subhawati Devi

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ram Chandra Srivastava, Ashok Kumar Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

1. Today when the matter has been taken up, the learned Standing Counsel had pointed out towards the relief sought in the writ petition so as to contend that the writ petition would lie elsewhere. This Court called for a report from the office (stamp reporter) who has tendered its report dated 02.11.2023 according to which this Court have jurisdiction to adjudicate the matter

2. Accordingly, this Court is proceeding with the matter.

3. Heard Sri Ram Chandra Srivastava, learned counsel for the writ petitioner as well as Sri Shailendra Singh, learned Standing Counsel who appears for respondents No. 1 and 2.

4. In view of the order which is being proposed to be passed today, notices are not being issued to the third and fourth respondent.

5. The case of the writ petitioner is that her son namely, Ram Dayal son of Khaderu Prasad was working as Assistant Teacher in the third respondent-institution, Sankrityayan Inter College Malawn, District- Gorakhpur since 25.07.2017 and he assumed on 26.07.2017 and he died in a road accident on 27.10.2022. The deceased was married to fourth respondent, however, the fourth respondent has been made admissible the pensionary benefits but she is not supporting the case of the writ petitioner who happens to be a widowed mother having no livelihood. The writ petitioner claims to have represented the matter before the second respondent, District Inspector of Schools, Gorakhpur.

6. Prayer in the present petition is for a direction to the second respondent to take appropriate decision in the matter.

7. Sri Shailendra Singh, learned Standing Counsel submits that

first of all, the writ petitioner has to prove as to whether there is any nomination in her favour and since the said documents are completely missing in the present petition and further there has to be a conscious decision taken by the competent authority, thus, according to him, since the writ petitioner has herself represented the matter before the second respondent, thus, the second respondent be directed to decide the matter, he further submits that he does not propose to file any response to the writ petition.

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

9. Considering the submission of the rival parties as well as the stand taken by them, the writ petition is being disposed of without seeking any response granting liberty to the writ petitioner to represent her cause before the second respondent who shall on the receipt of the same put to notice the third and fourth respondents and thereafter proceed to decide the entitlement of the writ petitioner within a period of two months from the date of production of certified copy of the order bearing in mind the issues relatable to the nomination, entitlement of the writ petitioner and other ancillary and incidental issues which might crop up while deciding the claim of the writ petitioner.

10. Needless to point out that this Court has no adjudicated on the merits of the matter.

Order Date :- 2.11.2023

Rajesh