

**Court No. - 35**

**Case :-** WRIT - A No. - 18446 of 2023

**Petitioner :-** Ratneshwar Kumar Mishra And Another

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

**Counsel for Petitioner :-** Sushil Kumar Mishra

**Counsel for Respondent :-** C.S.C.

**Hon'ble Vikas Budhwar,J.**

Heard Sri Sushil Kumar Mishra, learned counsel for the petitioners who are two in number and Sri Saurabh learned Standing Counsel, who appears for respondents 1, 2 and 3.

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

The case of the writ petitioners as asserted in para 4 of the writ petition is that in the fourth respondent institution, Baba Ragav Das Krishak Intermediate College Bhatpar Rani, District Deoria as many as eight vacancies lying vacant on the post of C.T. Grade Teacher since 1972 to 1985.

The Committee of Management of the Institution on 1.7.1988 sought permission to fill up the vacancies since no approval was granted so the writ petitioners claim to have been selected and appointed but their approval was denied so the writ petitioners preferred Writ Petition No.3264 of 1990 for quashing of the orders dated 20.6.1989, 5.6.1990, 4.9.1990 and for payment of salary in that regard. The said writ petition came to be decided on 25.9.1997 with a direction to the respondents herein to continue the writ petitioners in service till regularly selected comes and the arrears of salary be paid. The writ petitioners claim to have preferred Contempt Petition No.710 of 1998 against which the District Inspector of Schools, Deoria preferred a Contempt Appeal No.1581 of 2000 in which an order was passed on 10.7.2000 that only current salary being paid and not arrears however according to the writ petitioners the said contempt petition came to be finally disposed off on 2.7.2021 while passing the following order:-

*"Since the order has been carried out and separate affidavits have been filed by the alleged contemnors, as directed in our order dated 5.2.2001, we are not inclined to pass any further orders in this contempt appeal. The appeal stands disposed of finally."*

The writ petitioners further claim that they are getting salary w.e.f. August, 2000, however they are not being paid salary from 2.1.1989, 21.1.1991 and in so far as the petitioner no.2 from July, 1992 to July, 2000.

The writ petitioners have also preferred a Contempt Petition No.5838 of 2018 for payment of the arrears of the salary and according to the writ petitioners they stand superannuated on 31.3.2019.

Prayer in the present petition is for a direction to the respondents to consider the case of the writ petitioners for regularisation under Section 33B or 33F of the U.P. Act No.5 of 1982.

Sri Surabh learned Standing Counsel submits that the issue as to whether the writ petitioners are entitled to regularisation in terms of the aforesaid sections needs consideration at the first instance by the Joint Director of Education (Secondary/Intermediate Education) 7th Region, Gorakhpur, he shall accord consideration to the claim of the writ petitioners. He further submits that he does not propose to file any response to the writ petition however the writ petitioners may represent their cause before the respondents.

To such a submission, learned counsel for the petitioners 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 petitioners to prefer a comprehensive representation along with the self-attested copy of the writ petition before the second respondent, Joint Director of Education (Secondary/Intermediate Education) 7th Region, Gorakhpur, who shall on the receipt of the same, put to notice to the fourth respondent and thereafter proceed to determine the entitlement of the writ petitioners 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 :- 2.11.2023/piyush**