

Court No. - 35

Case :- WRIT - A No. - 18729 of 2023

Petitioner :- Abhishek Kumar Singh

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

Counsel for Petitioner :- Gopal Ji Rai

Counsel for Respondent :- C.S.C

Hon'ble Vikas Budhwar,J.

Heard Sri Gopal Ji Rai, learned counsel for the petitioners and learned Standing Counsel, who appears for the State-respondents.

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

The case of the writ petitioners is that there is an institution namely Shri Vishwanath Tiwari Uchchatar Madhyamik Vidyalay Nirupur, Ballia which is recognized under the provisions of U.P. Intermediate Education Act, 1921 and the Payment of Salary Act, 1971 stands applicable. It is further the case of the writ petitioners that pursuant to the exercise under the directions of this Court in Writ Petition No.23607 of 2010, Dhruv Narayan Singh vs. State of U.P., the Educational Authorities were put to task to determine the number of vacancies vis-a-vis students in the particular institution. It is further the case of the writ petitioners as portrayed in paras 7 and 9 on account of superannuation of Shri Vermeshwar Mishra that after determination it was found that two out of five posts of Class-IV employees in the institution duly sanctioned are vacant. It is further the case of the writ petitioners that the fourth respondent corresponded with the second respondent, District Inspector of Schools, Ballia on 31.05.2006 for filling up the Class-IV vacancies. However, nothing was done hence the fourth respondent proceeded to conduct selections and the writ petitioners claim to have been appointed as a Class-IV employees on 21.7.2006 and joined 27.7.2006. It is further the case of the writ petitioners that despite the fact the writ petitioners are working but they have not been paid salary as financial approval has not been accorded.

Prayer in the present petition is for a direction to the second respondent, District Inspector of Schools, Ballia to consider the claim of the writ petitioners for according approval.

Learned Standing Counsel submits that the issue as to whether the writ petitioners are entitled to be accorded financial approval needs to be decided at the first instance by the second respondent thus the writ petitioners may approach the third respondent and he does not propose to file any response as according to him the second respondent will take care of the grievance of the writ petitioners.

Considering the submissions of the rival parties as well as stand taken by them, the writ petition is being disposed of without seeking any response from the respondents granting liberty to the writ petitioner to approach the second respondent, District Inspector of Schools, Ballia by filing a comprehensive representation along with the self-attested copy of the writ petition and on the receipt of the same the second respondent shall decide the claim of the writ petitioners strictly in accordance with law after putting to notice the fourth respondent in writing in advance while deciding the fundamental issues (a) the number of the sanctioned post (b) the number of post lying vacant (c) the issue with regard to the criteria adopted by the fourth respondent for conducting selection (d) applicability and the compliance of rules (e) the issue with regard to the limitation also in the payment of benefits (f) any other ancillary issues including delay if any. The said exercise is to be completed within a period of three 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 of**.

Order Date :- 20.11.2023

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