

Court No. - 35

Case :- WRIT - A No. - 18573 of 2023

Petitioner :- C/M Swami Ramanand Balika Inter College

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

Counsel for Petitioner :- Yogesh Kumar Saxena

Counsel for Respondent :- C.S.C.,Samarath Singh,Sankalp Narain

Hon'ble Vikas Budhwar,J.

1. Heard Sri Yogesh Kumar Saxena, learned counsel for the writ petitioner, Sri Vinod Kumar Singh, learned Standing Counsel who appears for respondents No. 1 to 3 and Sri Samarath Singh, learned counsel who appears for fourth respondent.

2. Since the parties are represented before this Court and they have made a statement at Bar that they do not propose to file any response and the writ petition be decided on the basis of the documents available on record, thus, with the consent of the parties, the writ petition is being decided at the fresh stage.

3. Sri Samarath Singh, learned counsel who appears for the fourth respondent has made a statement at Bar that he was not in the receipt of the supplementary affidavit filed by the writ petitioner bringing on record, on service of the same, he has made further statement and he is in a position to advance his argument.

4. The case of the writ petitioner is that the Committee of Management of the institution proceeded to place the the fourth respondent under suspension on 21.04.2022 approval whereof was accorded on 04.09.2022 by the District Inspector of Schools, Farrukhabad, third respondent, this led to filing of Writ A No. 19067 of 2022 by the fourth respondent which came to be disposed of 21.11.2022 setting aside the order dated 04.09.2022 of the third respondent, District Inspector of Schools, Farrukhabad requiring him to pass a fresh order. In the meantime, according to the writ petitioner Committee of Management post completion of inquiry a resolution was passed proposing to dispense with the services of the fourth respondent, however, it was alleged that the District Inspector of Schools, Farrukhabad slept over the said matter which constrained the writ petitioner to file Writ A No. 22185 of 2022 in which the following direction was issued on 23.02.2023 -

"The Court is of the considered view that the matter requires departmental investigation/enquiry and accordingly following orders are passed:

1. The Committee of Management may immediately forward papers to the District Inspector of Schools within two weeks from today and the District Inspector of Schools will forward the papers to the Board within a week thereafter and the Board thereafter shall proceed to take appropriate decision in the matter in accordance with the procedure prescribed for under the relevant Rules and the Act;

2.The Director of Education (Secondary), Uttar Pradesh is directed to set up an enquiry on the conduct of the erstwhile District Inspector of Schools, Dr. Adarsh Kumar Tripathi and that of the present District Inspector of Schools, Farrukhabad, Sri Narendra Pal Singh and conclude the same within a period of 30 days of receipt of copy of this order. The enquiry report will be placed in a sealed cover before this Court."

5. Thereafter according to the writ petitioner, the matter was pending before the authorities, however, on 07.08.2023 a communication of the Secretary, U.P. Secondary Education Service Selection Board Prayagraj was placed before the Court reciting the fact that the proposal for dispensation of the services of the fourth respondent was negated. A writ petition is stated to have been preferred by the petitioner Committee of Management being Writ A No. 15262 of 2023 in which on 27.09.2023 this Court required the respondents therein to seek instructions regarding the genuineness of the documents dated 07.08.2023 and ultimately on 17.10.2023 an order was passed taking into note the fact that the counsel appearing for the Board made a statement that the said document is forged and fictitious. It is also the case of the writ petitioner that on 17.10.2023 the third respondent District Inspector of Schools, Farrukhabad has proceeded to negate the claim of the writ petitioner and directed for attestation of the signature of the fourth respondent as the Officiating Principal of the institution in question.

6. Questioning the said order, the writ petitioner has filed the present writ petition.

7. A supplementary affidavit has been filed by the learned counsel for the writ petitioner wherein owing to manipulations and commission of certain offences under penal provisions the Committee of Management of the institution in question, the writ petitioner has passed an order placing the fourth respondent under suspension on 25.10.2023 and further criminal proceedings have also been lodged.

8. Sri Yogesh Kumar Saxena, learned counsel for the writ

petitioner, thus, submits that there was no occasion whatsoever to have directed for attestation of the signature of the fourth respondent particularly in view of the fact that so far as the first suspension of the writ petitioner as well as the dispensation of the services of the writ petitioner the matter was already engaging attention before the third respondent, District Inspector of Schools, Farrukhabad and in the meantime owing to the controversy which stood arisen in the background of the fact that the communication dated 07.08.2023 was a forged document and the ultimate beneficiary is the fourth respondent, thus, the Committee of Management has proceeded to suspend the fourth respondent. He submits that in view of the said factual position until and unless a conscious decision is taken regarding the approval/disapproval of the second suspension it was not open for the District Inspector of Schools, Farrukhabad, third respondent to have proceeded to direct for attestation of the signature of the writ petitioner. He, thus, submits that a direction be issued to the District Inspector of Schools to take prompt decision as due to leverage, apathy now multiple complications are being cropped up one after other which is beyond the comprehension and the control of the writ petitioner.

9. Sri Samarath Singh, learned counsel who appears for the fourth respondent, on the other hands, submits that the status of the fourth respondent cannot be said to be attaching of clog of a suspended or terminated employee as no approval whatsoever has not been accorded till date. He, however, gracefully submits that the District Inspector of Schools, Farrukhabad should take a conscious decision expeditiously so as to sub-serve the interest of both the parties.

10. Sri Santosh Kumar, learned Standing Counsel who appears for respondents has supported the submission of the learned counsel for the fourth respondent, however, he could not dispute the fact that once the suspension order has been passed then approval/disapproval is to be accorded in that regard. At this juncture, Sri Yogesh Kumar Saxena, learned counsel for the writ petitioner submits that in the wake of the second suspension order dated 25.10.2023 the same would become only unenforceable after lapsing of 60 days but the said golden date has not come till date.

11. I have heard the learned counsel for the parties and perused the record carefully.

12. Since the facts of the case are not in dispute, now the only question which arises which is the authority to approve the suspension of the fourth respondent. Principally, post enforcement

of U.P. Act No. 15 of 2023 it is the third respondent, District Inspector of Schools who has to accord consideration. Already the writ petitioner possesses orders in its favour for approval/disapproval of the suspension and dispensation of the services of the fourth respondent, however, so far as the second suspension order dated 25.10.2023 is concerned the writ petitioner has a case wherein a direction is to be issued by the District Inspector of Schools, Farrukhabad to pass the order on the same.

13. In view of the fact, the writ petition is being disposed of in the following matter:

(a) the writ petitioner shall approach the District Inspector of Schools, Farrukhabad by 13.12.2023; (b) the District Inspector of Schools, Farrukhabad shall fix a date in the week commencing 18.12.2023 for exchange of the versions between the parties; (c) and after hearing them, an order is passed by 05.01.2024.

14. It is expected that the third respondent, District Inspector of Schools shall act strictly in accordance with law and pass necessary orders and comply with the earlier order passed by this Court.

Accordingly, the writ petition stands disposed of.

Order Date :- 7.12.2023

Rajesh