

Court No. - 35

Case :- WRIT - A No. - 18818 of 2023

Petitioner :- C/M Adarsh Sanskrit Mahavidyalay

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Kushmondeya Shahi, Tanuj Shahi

Counsel for Respondent :- C.S.C., Shesh Kumar Srivastava

Hon'ble Vikas Budhwar, J.

Heard Shri Kushmondeya Shahi, learned counsel for the writ petitioner, Shri Pradeep Kumar Shahi, learned Additional Chief Standing Counsel for the respondent Nos. 1 and 2 and Shri Dev Kaushik, advocate holding brief of Shri Shesh Kumar Srivastava, learned counsel for the respondent No. 3.

The case of the writ petitioner is that with respect to the appointment for nomination of the subject expert for holding selection for the post of the assistant teacher pursuant to the advertisement dated 13.09.2017, the writ petitioner herein filed Writ A No. 516 of 2022 which came to be decided on 29.08.2022, while passing the following orders:

"1. Heard Shri Kushmondeya Shahi, learned counsel for the petitioner; Shri Avneesh Tripathi, learned counsel for respondent nos. 3 and 4 and; learned Standing Counsel.

2. Due to subsequent developments, learned counsel for the petitioner has pressed prayer no. B, only. Thus, the present writ petition has been confined to the following prayer:

"Issue a writ, order or direction in the nature of Mandamus directing the respondent no. 4 i.e. Vice Chancellor, Sampurnanand Sanskrit Vishwavidyalay, Varanasi to nominate the subject expert for holding the selection for the post of Assistant Teacher pursuant to the advertisement dated 13.09.2017."

3. *Inasmuch as the University has yet not considered the request of the petitioner institution in view of the earlier legal impediment and since it is now acknowledged that the matter is ripe for consideration by the University, no useful purpose would be served in making any adjudication on merits.*

4. *Accordingly, the present petition is disposed of with a direction that the University shall now proceed to consider the petitioner's request for nomination of subject expert for holding the selection on the post of Assistant Teacher. In doing so, the University shall remain mindful of the judgement passed by this Court in Triveni Sanskrit Mahavidyalay vs. State of U.P. & Ors., 2019 (4) ADJ 510, and other law obtaining on the subject. Such decision may be made within a period of two months from today. In case, the request made by the petitioner institution is to be rejected or deferred beyond the time set out above, due communication of the same shall be made by the University within the time-frame indicated above."*

According to the writ petitioner, now a communication was issued to the Registrar of the respondent-University requiring certain inputs from the petitioner-institution. The petitioner's claims to have rendered the reply on 20.01.2023, a copy whereof has been annexed at page 69 of the paper-book. Learned counsel for the writ petitioner has invited the attention of the communication of the Registrar of the University dated 14.09.2023 wherein this much has been recited that pursuant to the notice dated 24.12.2022, the writ petitioner submitted his reply on 20.01.2023. According to the writ petitioner, he is also tendered his reply to certain clarification which was sought on 14.09.2023, on 05.10.2023 as in this regard he seeks to rely upon the document at page 72 of the paper-book. Now according to the writ petitioner, an order has been passed on 05.10.2023 by the third respondent, Vice Chancellor, Sampuranand Sanskrit Vishwavidyalay, Varanasi whereby the claim of the writ petitioner, according approval for nomination of the subject expert has been rejected on the ground that the writ petitioner has not

submitted the required documents. Questioning the said order, the writ petitioner has filed the present writ petition.

Shri Shahi, learned counsel for the writ petitioner submits that the order is fundamentally proceeds on wrong directions, particularly, in view of the fact that the writ petitioner has tendered his reply on 20.01.2023 to the communication on 24.01.2022 and 05.10.2023 to the communication dated 14.02.2023. He further seeks to rely upon para 18 of the writ petition so as to contend that the reply of the writ petition dated 05.10.2023 was received in the office of the University at 11.00 am on the said date. Thus, the same ought to have been considered.

Shri Dev Kaushik, advocate holding brief of Shri Shesh Kumar Srivastava, learned counsel for the respondent-University submits that might be on 05.10.2023, the document was received but prior to it, the order ought to have been passed. However, according to him, since the writ petitioner has right to prove his *bone fide*, thus, according to him, the order be set aside, matter be remitted back so as to accord fresh consideration on the merits of the matter.

Learned Additional Chief Standing Counsel has adopted the argument of Shri Dev Kaushik, advocate holding brief of Shri Shesh Kumar Srivastava, learned counsel for the respondent-University. He further submits that he does not propose to file any response.

Considering the submission of the rival parties as well as stand taken by them, the order dated 05.10.2023 passed by the third respondent, Vice Chancellor, Sampuranand Sanskrit Vishwavidyalay, Varanasi is set aside, the matter stands remitted to the third respondent, Vice Chancellor, Sampuranand Sanskrit

Vishwavidyalay, Varanasi to pass fresh order within 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 :- 8.11.2023

A. Prajapati