

Court No. - 35

Case :- WRIT - A No. - 18832 of 2023

Petitioner :- Smt. Sadhna Srivastava

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Ashok Kumar Pandey

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

Heard Sri Ashok Kumar Pandey, learned counsel for the writ petitioner and Sri Pradeep Kumar Shahi, learned Additional Chief Standing Counsel, who appears for Respondents 1 to 4.

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

The case of the writ petitioner is that there happens to be an institution by the name of M.P.P. Arya Kanya Inter College, Gorakhpur, fifth respondent, which is an institution recognised under the provisions of U.P. Intermediate Education Act, 1921 and the provisions of U.P. Act No. 24 of 1971 stands applicable. The case of the writ petitioner is that Smt. Harvindar Paneshwar, Smt. Usha Gupta and Smt. Usha Srivastava who were appointed on the assistant teacher in the institution of superannuated on 30.06.2009 and 30.06.2010 thereafter the committee of management of the institution in question proceeded to seek approval for making appointment on the post of assistant teacher and thereafter proceeded to publish an advertisement in the newspapers on 15.12.2010. The writ petitioner claims to have been selected after obtaining highest quality point marks and by virtue of a resolution passed on 02.01.2011, the writ petitioner claims to have been issued appointment order on 07.01.2011, according to the writ

petitioner, when their appointment was not approved and salary was not being paid so they preferred Writ A No. 67424 of 2011 (Smt. Sadhna Srivastava and others Vs. State of U.P. and others) which came to be disposed of on 24.11.2011 pursuant whereeto, the claim of the writ petitioner has been rejected by the Regional Level Committee on 02.09.2013 against which the writ petitioner preferred Writ A No. 11345 of 2014 which is pending, there is no interim order, according to the writ petitioner, the Principal of the institution namely Smt. Reeta Srivastava has got appointed, one Smt. Sadhna Srivastava wife of Naveen Kumar Srivastava, sixth respondent as assistant teacher, the writ petitioner seeks to rely upon a report dated 27.10.2020 of the Finance Controller (Intermediate) Education Anubagh Education Directorate directed to the District Inspector of Schools Annexure 12 reference whereof has been given in para 35 of the writ petition, wherein it has been opined that illegally the Principal of the institution in question got procured and appointment in favour of her real sister.

Learned counsel for the writ petitioner submits that in view of the provisions contained under Section 16-E-10 of the U.P. Intermediate Education Act, 2010, it is the Director of Education Secondary U.P., Lucknow, third respondent who is to take a decision in the matter. On pointed query being raised to the learned counsel for the writ petitioner as to whether he has approached the Director of Education Secondary U.P., Lucknow, third respondent or not he submits that he has not approached. In the said factual position, this Court cannot issue a positive mandamus in favour of the writ petitioner. However, it is open for the writ petitioner to approach the Director of Education, U.P. at Lucknow, if it is permissible under law. In case such a motion is moved by the writ petitioner then the same shall be considered in accordance with

law if maintainable by the third respondent.

With the aforesaid observation, the writ petition is **disposed off**.

Order Date :- 8.11.2023

A. Prajapati