

Court No. - 21

Case :- SPECIAL APPEAL No. - 742 of 2023

Appellant :- C/M Shukulpur Inter College

Respondent :- Ram Vijay Singh And 3 Others

Counsel for Appellant :- Nishant Mishra, Nikhil Pandey

Counsel for Respondent :- C.S.C., Prabhakar Awasthi

Hon'ble Manoj Kumar Gupta, J.

Hon'ble Donadi Ramesh, J.

1. The instant intra-court appeal is directed against the order of learned Single Judge dated 04.10.2023 in Writ-A No. 14607 of 2023 (Ram Vijay Singh vs. State of U.P. and 3 others).
2. The dispute in the writ petition relates to suspension of the original writ petitioner (respondent No. 1 herein). He is a lecturer in the college run by the appellant. The District Inspector of Schools had approved his suspension by the order impugned in the writ petition dated 03.08.2023. The Writ Court has set aside the said order and with consent of counsel for the parties, the matter was remitted for consideration by the Joint Director of Education, Prayagraj Region, Prayagraj and certain other directions were also issued in regard to the procedure to be followed while taking decision in the matter.
3. Shri Nishant Mishra, learned counsel appearing for the appellant submitted that his consent was wrongly recorded in the order and in the alternative, he also submitted that under Section 16-G(7) of U.P. Intermediate Education Act, 1921, the power to approve or disapprove suspension order is vested in the 'Inspector', who according to the definition given in Section 2(bb) of the Act would be the District Inspector of Schools. He submits that any concession or consent given against the specific provisions of the statutes is not binding.
4. Shri Prabhakar Awasthi, learned counsel appearing for the original writ petitioner points out that there are two post of District Inspector of Schools in district

Prayagraj. One is occupied by the incumbent who passed the impugned order. He suggested that the matter can be remitted to the other District Inspector of Schools for deciding the dispute between the parties. Shri Nishant Mishra, learned counsel for the appellant does not object to it.

5. Shri Nishant Mishra, learned counsel for the appellant and Shri Prabhakar Awasthi, learned counsel for the original writ petitioner state that one Shri Ramesh Kumar Tiwari is occupying the other post of District Inspector of Schools, Prayagraj who has not dealt with the matter in past. He can decide the dispute between the parties with fairness and without any bias.

6. Having regard to the above, we modify the impugned order of learned Single Judge and in place of Joint Director of Education, Prayagraj Region, Prayagraj, it will be the District Inspector of Schools, Prayagraj, Shri Ramesh Kumar Tiwari who would be deciding the matter relating to approval of the suspension of the original writ petitioner. As the time prescribed by the impugned order for exchange of pleadings has expired, we prescribe the following time line in supersession of the timeline provided in the order of learned Single Judge :-

(a) the affidavits shall be exchanged by 30 November 2023;

(b) hearing be done in last week of December 2023;

(c) orders be passed by 24 January 2024.

7. The appeal stands disposed of accordingly.

Order Date :- 20.11.2023

Mukesh Kr.

(Donadi Ramesh,J.) (Manoj Kumar Gupta,J.)