Court No. - 35

Case :- WRIT - A No. - 19210 of 2023

Petitioner :- Harendra Kumar Singh
Respondent :- State Of U.P. And 6 Others
Counsel for Petitioner :- Rahul Srivastava
Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

Heard Sri Rahul Srivastava, learned counsel for the petitioner as well as Sri P.K. Shahi, the learned Addl. Chief Standing Counsel, who appears for Respondents 1 to 5.

In view of the order, which is being proposed to be passed today, notices are not being issued to the 6th and 7th respondents.

The case of the writ petitioner is that there is an Institution in the name of Maniyar Inter College Maniyar, District Ballia, which is recognized under the provisions of U.P. Intermediate Education Act, 1921 and the provisions of U.P. Act No.24 of 1971 as well as U.P. Act No.5 of 1982 stand applicable. The writ petitioner claims to have been appointed as Lecturer (Sociology) in the Institution in question on 20.02.1994 and his services were approved on 26.04.1994. However, on 26.09.1995, his salary was withheld by District Inspector of Schools, Ballia with regard to certain enquiry proceedings, which impelled the writ petitioner to prefer Writ-A No.3651 of 2006 (*Harendra Kumar Singh Vs. State of U.P. and others*), which came to be disposed off on 04.09.2008 with certain directions. The writ petitioner claims that in pursuance of the directions of the Hon'ble Court, his salary was released on 25.10.2008 and he is presently working as Lecturer (Sociology) for more than 29 years. The writ petitioner further claims to have been accorded selection grade post completion of 10 years on 20.02.2004 and after completion of 22 years, promotion pay-scale was accorded vide order dated 17.12.2020 w.e.f. 20.02.2010. In paragraph-14 of the writ petition, the writ petitioner further claims that he was accorded promotional pay-scale w.e.f. 2016 but the arrears of salary were not paid which has been quantified according to the writ petitioner in paragraph 14 of the writ petition. As per the writ petitioner certain objections have been raised, pursuant whereto without confronting the writ petitioner with regard to the said audit objections as stated in paragraph-16 of the writ petition, and now without affording opportunity to the writ

petitioner, relevant averments made in paragraph-32 of the writ petition, the impugned recovery is being directed to be made under the orders dated 04.10.2023 of the third respondent, District Inspector of Schools, Ballia.

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

Learned counsel for the writ petitioner seeks to rely upon various judgments of the Hon'ble Apex Court in the case of ***State of Punjab Vs. Rafiq Masih*** reported in **(2015) 4 SCC 334** as well as the judgment in the case of ***Thomas Daniel Vs. State of Kerala and others***, **2022 LiveLaw (SC) 438**. He submits that propriety demanded that before effecting the said recovery, opportunity of hearing ought to have been given to the writ petitioner. According to him, the order in question is patently illegal, contrary to law and is liable to be set aside.

Sri P.K. Shahi, learned Addl. Chief Standing Counsel on the other hand submits that though as per the order in question, the writ petitioner was not put to notice and it is also the allegation of the writ petitioner that audit objection has also not been made available to the writ petitioner to submit his objection and to have a say in the matter. Thus, according to him, let the writ petitioner approach the third respondent and he shall decide the matter. He further submits that he does not propose to file any response to the writ petition.

To such a submission, learned counsel for the writ petitioner has no objection and he gracefully accepts the same.

Considering the submission of the rival parties as well as the stand taken by them, the writ petition is being disposed off without seeking any response from the respondents granting liberty to the writ petitioner to approach the third respondent, District Inspector of Schools, Ballia along with a comprehensive representation accompanied with self-attested copy of the writ petition within a period of one week from today, who shall, on the receipt of the same, put to notice the sixth and seventh respondents and thereafter, post exchange of the versions, an order be passed by 31.12.2023. Since it is the case of the writ petitioner that he has not been heard before passing of the orders and without being provided inputs, recovery is being sought to be made, thus with the passing of the fresh orders or till 31.12.2023, whichever is earlier, no coercive steps be taken against the writ petitioner.

Needless to point out that the fresh orders shall be passed with independent application of mind and the order which is subject matter of challenge shall not come in the way of disposal of the matter.

With the aforesaid observations the writ petition stands **disposed off**.

Order Date :- 4.12.2023
N.S.Rathour

Digitally signed by :-
NIPENDRA SINGH RATHOUR
High Court of Judicature at Allahabad