

Court No. - 35

Case :- WRIT - A No. - 19271 of 2023

Petitioner :- C/M Bayalasi Snatakottar Mahavidyalaya And Another

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Sanjeev Singh, Vinay Kumar Singh

Counsel for Respondent :- C.S.C., Ramesh Chandra Tiwari, Ran Vijay Singh

Hon'ble Vikas Budhwar, J.

1. Heard Shri Sanjeev Singh, learned counsel for the writ petitioner, Dr. Santosh Kumar Shukla, learned Additional Chief Standing Counsel for the respondent Nos. 1 and 2, Shri Ranvijay Singh, learned counsel for the respondent Nos. 3 and 4 as well as Shri Ashok Khare, learned Senior Counsel assisted by Shri Ram Chandra Tiwari, learned counsel for the respondent No. 5.

2. The case of the writ petitioner is that it is a committee of management of Bayalasi Snatakottar Mahavidyalaya, Jalalpur, Jaunpur which is affiliated to Veer Bahadur Singh Purvanchal University, Jaunpur and the provisions of the U.P. State Universities Act, 1973, first statute of the respondent-University and the provisions of U.P. Higher Education Service Commission are applicable.

3. It is the case of the writ petitioner that owing to certain acts and omissions at the end of the fifth respondent who is working as an officiating principal of the incharge Geography in the petitioner-institution, a resolution is stated to have been passed on 17.09.2023 resolving to suspend the fifth respondent on 20.10.2023. An inquiry officer is stated to have been nominated. A chargesheet is also stated to have been served upon the fifth

respondent on 11.10.2023 containing the various charges. It is also the case of the writ petitioner that the matter traveled to the respondent-University and there happens to be a communication dated 28.10.2023 of the Registrar of the respondent-University, fourth respondent whereby on the basis of certain communication of the fifth respondent that too by an email dated 27.10.2023 in exercise of the powers as conferred under Section 35 of the U.P. State Universities Act, 1973, the order placing the fifth respondent under suspension has been stayed while constituting a three member committee.

4. Questioning the said order, the writ petitioner, committee of management of the institution in question has filed the present writ petition.

5. Shri Sanjeev Singh, learned counsel for the writ petitioners submits that though power has been vested upon the Vice Chancellor to stay the proposal of the committee of management for placing a teacher under suspension but the said power cannot be resorted too in such a manner that it reflects illegality and total non-application of mind that too in violation of principles of natural justice. He submits that on top of all, the Vice Chancellor of the University had no authority to abdicate its essential function while constituting a three member committee in that regard. He submits that had the writ petitioners been heard before staying the suspension order then the writ petitioners, committee of management could have amply demonstrated that there was no occasion to pass such an order in the wake of grave and serious charges so levelled upon the fifth respondent.

6. Shri Sanjeev Singh, learned counsel for the writ petitioners has seeks to rely upon the decision in Writ A No. 15195 of 2023 (J.P.

Mahajan Degree College, Chauri Chaura, Gorakhpur Vs. State of U.P.) 11.10.2023 as well as the decision in Writ A No. 12556 of 2023 (C/M Gandhi Vidya Niketan Degree College and another Vs. State of U.p. and 5 others) so as to buttress the stand that it was not open for the respondent University to have constituted a three member committee.

7. Shri Ashok Khare who appears for the fifth respondent submits that the order dated 28.10.2023 which is stated to be a communication of the Registrar of the University does not in any manner whatsoever block the avenues and the chances of the writ petitioners to put forward its stand as if only stays the suspension order while constituting a three member committee requiring the say of the writ petitioners, committee of management. He submits that it is always open for the writ petitioners, committee of management to put forward his version/stand which would be considered in that regard and appropriate follow up action could be taken.

8. Shri Ranvijay Singh, learned counsel appearing for the University submits that by virtue of the said exercise which has been recapitulated in the form of the communication only the resolution of the committee of management placing the fifth respondent has been put in abeyance, however, it is always open for the writ petitioners, committee of management to approach the University and to put forward his stand and in case the same is of merit and required reconsideration of the order then corrective orders can be passed.

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

10. The facts of the case are not in dispute. It is not disputed that the fifth respondent has been placed under suspension by the writ petitioners, committee of management and the same has been stayed on the basis of the email dated 27.10.2023 of the fifth respondent by the Vice Chancellor pursuant to a communication of the Registrar of the University dated 28.10.2023. A pointed query has been raised Shri Ranvijay Singh, learned counsel for the University is to under which provision of law the said three member committee was constituted to go into the said aspects once Section 35 enjoins the Vice Chancellor to take a decision. He, however, submits that this Court may not go into the said issues in the present proceedings, however as per his instructions now the Vice Chancellor of the University shall take a decision within a time bound period as stipulated by this Court.

11. Considering the submission of the rival parties as well as stand taken by them, the writ petition is being disposed of in the following manner:

(a) the order dated 28.10.2023 passed by the third respondent, Vice Chancellor, Bayalasi Snatakottar Mahavidyalaya, Jalalpur, Jaunpur insofar as it seeks to stay the effect and operation of the suspension order dated 20.10.2023 is maintained; (b) the order dated 28.10.2023 passed by the respondent insofar as it requires the writ petitioner, Committee of Management to give its explanation before a three member committee is modified to the extent that now the third respondent shall consider and decide the issue with regard to the suspension of the fifth respondent; (c) the third respondent, Vice Chancellor shall fix an appropriate date in the fourth week of December, 2023 after giving due information in advance in writing to the petitioners as well as the sixth

respondent; (d) on the said date so fixed by the third respondent, Vice Chancellor, the petitioners and the sixth respondent shall appear before it along with the written submissions, if any and the same would be exchanged on the said date; (e) thereafter a date will be fixed in the first week of January 2024 on which date the matter shall be heard and within a period of further two weeks final order shall be passed.

12. With the aforesaid observations the writ petition stands **disposed of.**

Order Date :- 12.12.2023

A. Prajapati