

Court No. - 35

Case :- WRIT - A No. - 19375 of 2023

Petitioner :- C/M G.P.G. Higher Secondary School And
Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Gopal Ji Rai

Counsel for Respondent :- C.S.C., Ganesh Mani, Kushmondeya
Shahi

Hon'ble Vikas Budhwar, J.

Supplementary affidavit filed today is taken on record.

Heard Sri Gopal Ji Rai, learned counsel for the writ petitioners, Sri S.K. Mishra, learned Standing Counsel, who appears for respondents 1, 2 and 3 and Sri Kushmondeya Shahi, learned counsel who appears for respondent no.4.

The case of the writ petitioners is that the fourth respondent who was working as an Assistant Teacher/Officiating Principal was placed under suspension and the suspension order stood approved on 9.9.2023 by the District Inspector of Schools, Kanpur Nagar, third respondent, however according to the writ petitioners now the said order has been cancelled on 12.10.2023 by the District Inspector of Schools, Kanpur Nagar, third respondent.

While relying upon paragraph no.8 it is being sought to be contended that the said order has been passed in violation of principles of natural justice. Further relying upon paragraph no.3 of the supplementary affidavit it is further sought to be contended that no power vest with the District Inspector of Schools, Kanpur Nagar, third respondent to review the order.

Sri Goptal Ji Rai, learned counsel for the writ petitioners has also invited the attention of para 19 of the writ petition so as to contend that on 5.9.2023 post completion of disciplinary proceedings paper had been submitted before the board for approval.

Sri Kushmondeya Shahi, learned counsel who appears for respondent no.4 gracefully accepts that order has been passed in violation of principle of natural justice, he however submits that since post enactment of U.P. Act No.15 of 2023 now the power vest with the District Inspector of Schools, Kanpur Nagar, to

approve or disapprove the ultimate punishment order as the provisions contained under Section 21 of U.P. Act No.5 of 1982 stands repealed. He however submits that in case the order in question is set aside, matter stands remitted back then of course according to him a direction be issued to either approve or disapprove the proposal of the ultimate punishment order.

Sri S.K. Mishra, learned Standing Counsel has also not disputed the fact that there is no recital in the order impugned that the writ petitioner was put to notice.

Having heard the learned counsel for the parties and after perusing the records the Court finds that the order dated 12.10.2023 passed by the the District Inspector of Schools, Kanpur Nagar, cancelling the order dated 9.9.2023 is in violation of principles of natural justice.

Accordingly, the writ petition stands **allowed**. The order dated 12.10.2023 passed by the the District Inspector of Schools, Kanpur Nagar, third respondent is set aside. However the third respondent is not precluded from passing a fresh order if otherwise permissible under law after affording opportunity within respective parties. So far as the issue with regard to submission of entire papers including proposal for imposition of ultimate punishment upon the fourth respondent is concerned since now post enactment of U.P. Act No.15 of 2023 now the the District Inspector of Schools, Kanpur Nagar, third respondent is at liberty to take appropriate action after putting to notice parties within a period of two months of production of certified copy of the order by either of the parties.

Instructions filed today on behalf of fourth respondent are taken on record and marked as Appendix-A.

Order Date :- 1.12.2023

piyush