

Court No. - 35

Case :- WRIT - A No. - 19200 of 2023

Petitioner :- Raju Kushwaha And 3 Others

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

Counsel for Petitioner :- Ramesh Chandra Dwivedi

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

1. Heard Mrs Richa Dwivedi (AOR No. AYR 1807/2022) holding brief of Sri Ramesh Chandra Dwivedi, learned counsel for the petitioners and Sri Vijay Pratap Singh learned Standing Counsel, who appears for Respondents No. 1 to 4.

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

3. The case of the writ petitioners is that the Institution, Baba Raghav Das Post Graduate College, Deoria is affiliated with Deen Dayal Upadhaya Gorakhpur University, Gorakhpur and the provisions of U.P. State University Act 1973 stands applicable. In Para 4 details have been given regarding occurrence of the vacancies the writ petitioners claim that approval was sought from Regional Higher Education Officer Gorakhpur Region Gorakhpur on 05.11.2005 for Class IV post however the same was not accorded so advertisements was published in the year 2005. Selections were conducted on 23.12.2005 and the writ petitioners claim to be selected, papers were forwarded to the Regional Higher Education Officer Gorakhpur for according approval. The writ petitioners further claim that the matter regarding approval is pending consideration.

4. Prayer in the present petition is for a direction in the nature of mandamus directing the Regional Higher Education Officer Gorakhpur Region Gorakhpur to consider for granting approval to the appointment of the petitioners on the posts of Class IV employees in Baba Raghavdas Post Graduate College, Deoria and issue a writ, order or direction in the nature of mandamus directing the Regional Higher Education Officer Gorakhpur Region Gorakhpur to consider and pass appropriate order on the representation made by the petitioners for granting approval to their appointment on the posts of Class IV employees in Baba

5. Learned Standing Counsel submits that the issue is with the writ petitioners seek to raise determination at the first instance by the third respondent Regional Higher Education Officer Gorakhpur Region Gorakhpur, the writ petitioners there represent is their cause before the third respondent. He further submits that he does not propose to file any response.

6. Considering the submissions of the rival parties as well as stand taken by them, the writ petition is being disposed off requiring the writ petitioners to approach the third respondent who shall put to notice the fourth and the fifth respondent and proceed to decide the claim of the writ petitioners bearing in mind the total number of sanctioned strength, vacancies, eligibility, suitability of the writ petitioners and deserving candidates as well as adherence to the rules and other ancillary and incidental issues in accordance with law within a period of three months from the date of presentation of the certified copy of the order and of course the delay in approaching the Court in view of the judgment in the case of ***Rushaibai Jagdish vs. Bhavnagar Municipal Corporation JT 2022 (5) SC 470.***

7. Needless to point out that the writ petition has been decided without seeking any response from the respondents. Thus, passing of this order may not be construed to an expression that this Court has gone into the merits of the case.

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

Order Date :- 28.11.2023

Suraj Srivastav