

Court No. - 35

Case :- WRIT - A No. - 19466 of 2023

Petitioner :- Kamlesh Kumar Yadav

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

Counsel for Petitioner :- Shiv Poojan Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

Heard Sri Shiv Poojan Yadav, learned counsel for the petitioner as well as Sri Saurabh, the learned Standing Counsel, who appears for Respondent Nos. 1 to 4.

In view of the order, which is being proposed to be passed today, notices are not being issued to the 5th respondent.

The writ petitioner herein had filed **Writ-A No. 10708 of 2023, Kamlesh Kumar Yadav Vs. State of U.P.**, which came to be disposed of on 11.07.2023, order whereof is being quoted hereinunder:

"Heard Sri Pankaj Kumar Ojha, learned counsel for the petitioner and Sri H.K. Shukla, learned Standing Counsel for the respondents 1 to 3.

In view of the order which is being proposed to be passed today, notices are not being issued to respondent 4.

As per the writ petitioner he happens to be appointed as Lecturer fourth respondent institution, Sir Shadilal Inter College Mansoorpur, Muzaffarnagar and he was accorded joining as Officiating Principal on 26.12.2020.

It is the grievance of the writ petitioner that he has not been paid the salary for the period from December, 2020 to May, 2021 without any reason whatsoever.

Prayer in the present writ petition is for considering claim of the writ petitioner for payment of salary from December, 2020 to May, 2021.

Learned Standing Counsel on the other hand submits that in the writ petition there is no specific assertion supported any document substantiating the said fact as to when the writ petitioner was accorded joining as the Lecturer in the said institution and when he was accorded joining as Officiating Principal but according to the learned Standing Counsel no fruitful purpose will be solved either in obtaining instructions or calling for any response, however the writ petitioner may be directed to approach third respondent, District Inspector of Schools, Muzaffarnagar, who shall take appropriate decision in that regard.

Considering the rival submissions of the parties and stand taken by them, the writ petition is being disposed of granting liberty to the writ petitioner to prefer a comprehensive representation along with the self attested copy of the writ petition before the third respondent who shall on the receipt of the same proceed to decide within a period of three months from the date of the production of the certified copy of the order.

It is further clarified that the third respondent before considering the claim of the writ petitioner shall put to notice the fourth respondent and accord consideration on the following aspects:-(a) the validity of the appointment of the writ petitioner as Lecturer (b) the date of the joining of the writ petitioner as Lecturer (c) approval order issued by the Competent Authority according joining of the writ petitioner and financial approval (d) date of the joining of the Officiating Principal.(e) approval with regard to the joining as Officiating Principal.The said exercise is to be undertaken within a period of three months.

Needless to point out that the writ petition has been disposed off on an ex parte version without seeking any response and without hearing the fourth respondent thus passing of the order may not be construed to be an expression that this Court has gone into the merits of the matter.

With the aforesaid observations, the writ petition stands disposed off."

Now an order has been passed by the District Inspector of Schools, Muzaffarnagar, third respondent on 03.10.2023, whereby with respect to the payment of Salary from December 2020 to May 2021, approval/ permission has been sought from the second respondent, Director of Education, Secondary, U.P. Prayagraj.

Learned counsel for the writ petitioner submits that though he had challenged the order dated 03.10.2023 of the fourth respondent, but according to him, a decision is to be taken for passing appropriate orders in that regard. He thus submits that the relief so claimed by the writ petitioner may be molded in such a manner so as to direct the second respondent, to take appropriate decision.

Sri Saurabh, learned Standing Counsel, who appears for the official respondents submits that in view of the order dated 03.10.2023 of the third respondent, District Inspector of Schools, Muzaffar Nagar, the second respondent is to take a decision, thus a direction be given to the second second, Director of Education, Secondary, U.P. Prayagraj to take a decision.

Considering the submission of the rival parties as well as the stand taken by them, the writ petition is being disposed off requiring the second respondent, Director of Education, Secondary, U.P. Prayagraj to take appropriate decision within a period of one month from today bearing in mind the order dated 03.10.2023,

whereby permission/ approval has been sought by him.

The Court expects that a decision will be taken within the time stipulated hereinabove.

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

Order Date :- 23.11.2023
N.S.Rathour