

Court No. - 35

Case :- WRIT - A No. - 19509 of 2023

Petitioner :- Smt. Seema Tyagi

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Shri Krishna Mishra, Ajay Mishra

Counsel for Respondent :- C.S.C, Vivek Kumar Rai

Hon'ble Vikas Budhwar, J.

Heard Shri Krishna Mishra, learned counsel for the petitioner as well as Sri Gaya Prasad, learned Standing Counsel, who appears for Respondents 1 to 5 and Shri Ravi Prakash, advocate holding brief of Shri Vivek Kumar Rai, learned counsel for the respondent No. 6.

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

The case of the writ petitioner is that she after possessing the academic qualification of B.A., B.Ed. was appointed as an assistant teacher in a minority institution Anglo Bangali Girls Inter College, Agra on 17.12.2014 approval whereof was accorded on 12.12.2014, her services were also confirmed. However, according to the writ petitioner, a complaint is stated to have been filed by the eight respondent regarding the liability and entitlement of the writ petitioner to obtain the degree of M.A. As per the writ petitioner, an inquiry committee was constituted which tendered the report dated 17.03.2023 which was in favour of the writ petitioner. However, post submission of the inquiry report, another complaint was lodged by the eight respondent on 30.03.2023, thereafter the District Inspector of Schools is stated to have issued a communication and thereafter the District Inspector of Schools

got conducted inquiry wherein infirmities found against the writ petitioner, however, according to the writ petitioner, now the respondent-University, Dr. Bhim Rao Ambedkar University, Agra, District Agra has proceeded to constitute a committee in order to find out the allegations so made referable to the fact that the writ petitioner completed the M.A. course in 10 years despite the fact that it was over and above the maximum period herein. It is also the case of the writ petitioner that the District Inspector of Schools-II, Agra by virtue of the communication dated 31.10.2023 owing to the pendency of the proceedings at the end of the committee is pending thus the writ petitioner be not paid salary. Consequential order has also been passed which is also subject matter of challenge.

Learned counsel for the writ petitioner further submits that without issuing notice to the writ petitioner and granting opportunity of hearing to the writ petitioner, as no action can be taken. He seeks to rely upon the decision in the case of **Baghwan Shukla Vs. Union of India 1994 AIR SC 2480** wherein the Hon'ble Apex Court has clearly propounded the law and any adverse order passed behind the back of an incumbent cannot be sustained. Further submission of the learned counsel for the writ petitioner is had the writ petitioner being put to notice he could have amply demonstrated that there was no reason for passing of the said order. Learned counsel for the writ petitioner further seeks to rely upon the judgment in the case of Writ A No. 2540 of 2023 (Rakesh Kumar Dubey Vs. State of U.P. Thru. Prin. Secy. Basic Education Lko. and 4 Others) decided on 29.03.2023.

The learned counsel for the University and the learned Standing Counsel submits that the issues with the writ petitioner seeks to

raise regarding payment of salary is pending consideration before the District Inspector of Schools-II, Agra thus the writ petitioner may represent his cause before the fourth respondent who shall take appropriate decision in this matter.

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

Considering the submissions of the rival parties as well as 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 prefer a comprehensive representation along with the self-attested copy of the writ petition before the fourth respondent, who shall on the receipt of the same, after putting to notice the writ petitioner and seventh and eight respondent and proceed to decide the claim of the petitioner strictly in accordance with law within a period of three weeks from the date of presentation of the certified copy of the order.

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.

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

Order Date :- 2.12.2023

A. Prajapati