

Court No. - 35

Case :- WRIT - A No. - 19610 of 2023 (Leading writ petition)

Petitioner :- Ashit Kumar Rai

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

Counsel for Petitioner :- Gopal Ji Rai

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

with

Case :- WRIT - A No. - 19611 of 2023 (connected C1 writ petition)

Petitioner :- Amit Kumar Gupta

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

Counsel for Petitioner :- Gopal Ji Rai

Counsel for Respondent :- C.S.C.

with

Case :- WRIT - A No. - 19642 of 2023 (connected C2 writ petition)

Petitioner :- Anjani Yadav

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

Counsel for Petitioner :- Gopal Ji Rai

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

1. Heard Sri Gopal Ji Rai, learned counsel for the writ petitioner as well as Sri Pradeep Kumar Sahi, learned Additional Chief Standing Counsel who appears for respondent Nos. 1 to 3.

2. In view of the order, which is being proposed to be passed today, notices are not being issued to the Committee of Management or the Institution in question.

3. The case of the writ petitioner in the leading writ petition is that the Institution Uchchatar Madhyamik Vidyalay Dev Kali, Ballia is recognized under the provisions of U.P. Intermediate Education

Act, 1921, the provisions of U.P. Act No. 24 of 1971 stands applicable. As per the writ petitioner there is one post of Clerk which felt vacant on account of retirement of Veer Bahadur Singh on 31.04.2014 request was made for the District Inspector of Schools Ballia followed by reminders for making payment on the said post. Since none of the Class IV employees were eligible. Selection stated to have been conducted and the papers were transmitted to the District Inspector of Schools of approval but no approval has been issued and on 17.04.2015 the writ petitioner claims to have been appointed and joined the post on 22.04.2015.

4. In so far as the connected C1 petition is concerned the same has been filed by one Sri Amit Kumar Gupta wherein the name of the institution is Mahant Radhakrishna Inter College, Sakarpura, Kharsara, Ballia wherein there are nine sanctioned post of Class III employees and three are drawing salary one Class IV employee Sri Harekrishna Ram retired on 30.08.2009 appointment was sought from District Inspector of Schools Ballia but was not accorded, selection was conducted, appointment order was issued in favour of the writ petitioner. He joined on the post in question as Class IV employee.

5. The third writ petition has been preferred by Anjani Yadav wherein barring the change of institution the facts are there are five sanctioned posts of Class IV employee three was vacant one post was felt vacant on 30.04.2010 due to retirement of Sri Swaminath promotion was sought it was not accorded selections were conducted and the writ petitioner claims to have been selected.

6. Prayer in the three writ petitions is for a direction to the District Inspector of Schools Ballia to accord institution to their claims to the writ petitioner in that regard.

7. Learned Chief Standing Counsel on the other hand, submits that the orders with the writ petitioner seeks to raise needs determination at the first instance by the District Inspector of Schools Ballia, thus the writ petitioners may represent a cause before it. He further submits that they do not propose to file any response to the writ petition.

8. Considering the submission of the rival parties and stand taken by them writ petition is being disposed of granting liberty to the writ petitioner to approach the District Inspector of Schools Ballia who shall put to notice the Committee of Management/ Principal of the Institution in question and decide the entitlement of the writ petitioner within a period of three months bearing in mind the total

number of sanctioned strength of the post in question, vacancies, impacts of approval if any, adherence to the selection procedure, suitability and the eligibility of the writ petitioners and other deserving candidates as well as the issue of delay in the case of ***Rushaibai Jagdish vs. Bhavnagar Municipal Corporation JT 2022 (5) SC 470*** within a period of three months from the date of presentation of the certified copy of this order.

9. With the said observations all the writ petitions stand ***disposed off***.

Order Date :- 29.11.2023

Suraj Srivastav