

Court No. - 34

Case :- WRIT - A No. - 19757 of 2023

Petitioner :- Priya Pal

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Sankalp Narain, Samarath Singh, Srivats Narain

Counsel for Respondent :- CSC, Prabhakar Awasthi

Hon'ble Ajit Kumar, J.

1. Heard Sri H.P. Shahi, learned counsel for the petitioner and Sri Prabhakar Awasthi, learned counsel for the respondent no.2.

2. The petitioner was an applicant for the post of Lekhpal in the selection held by the second respondent. It appears that on the basis of some reports obtained regarding use of unfair means, the roll number of the petitioner was found mentioned in the document obtained from the prime accused in connection with the first information report lodged on 25.10.2022 with Case Crime No.440 of 2022 under Sections 467, 468, 471, 419 and 420 IPC and Section 4/10 of Uttar Pradesh Public Examination (Prevention of Unfair Means) Act, 1998 and so resultantly not only his candidature has been cancelled/ rejected for the examination in question but he has further been debarred to appear in future selection to be held by second respondent.

3. The basic plea raised by learned counsel for the petitioner is that except the roll number there is no other material intrinsic enough, to implicate the petitioner with the charge so as to completely debar the petitioner from the selection examination to be conducted by the second respondent in future and that too without affording any opportunity of hearing. He submits that petitioner has been virtually condemned unheard. Pleadings in that regard has been taken in paragraph nos.29 and 30 of the writ petition.

4. Upon a pointed query being made to Sri Prabhakar Awasthi, learned counsel for the respondents regarding averments made in the paragraph nos.29 and 30 of the writ petition, he submits that from the recitals made in the order

impugned, it cannot be said with authority that any notice or opportunity of hearing was given to the petitioner prior to passing of the order.

5. In view of the above, on a short question of opportunity of hearing, as the petitioner has been debarred from appearing in any further examination to be held in future by the second respondent for holding selection against the posts that may be advertised, I consider it appropriate for the petitioner to be afforded post decisional hearing in the matter.

6. It is, accordingly, hereby provided that the petitioner would be making an application before the 2nd respondent within a period of two weeks and upon such application being made, he will be supplied with requisite material within the next one week's time by the second respondent relied upon by it and then the petitioner would be submitting a detailed reply in his defense contradicting the material if any, within a further period of two weeks and then the second respondent will be taking a final decision in the matter in the next four weeks' time.

7. The decision already taken by the respondents is put in abeyance till the fresh decision is taken in the matter by competent authority for the purposes of participation of the petitioner in the future examination and this interim protection shall also abide by the decision to be taken by the competent authority in the matter as directed hereinabove.

8. With the aforesaid observations and directions, this petition stands ***disposed of***.

Order Date :- 29.11.2023

Deepika