

Court No. - 35

Case :- WRIT - A No. - 19883 of 2023

Petitioner :- Abhay Pratap Singh

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

Counsel for Petitioner :- Vishnu Swaroop Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

Heard Sri Shesh Kumar Srivastava holding brief of Sri Vishnu Swaroop Srivastava, learned counsel for the petitioner and Sri Saurabh, learned Standing Counsel, who appears for Respondent nos. 1 and 2.

On the oral request of learned counsel for the writ petitioner, he is permitted to correct the Serial Number in so far as the respondents are concerned.

Sri Shesh Kumar Srivastava holding brief of Sri Vishnu Swaroop Srivastava submits that so far as the third respondent Sri Jai Prakash Singh S/o Late Jeaut Singh, is concerned, he has been appointed way back in the year 1989 as an Assistant Teacher in the fourth respondent Institution Pawangar Mahaveer Inter College, Fazilnagar District Kushinagar. His allegation is that his father namely Jeaut Singh (since deceased) was the member of the Committee of Management. The submission is that the entire selection has been tailored. He further submits that on his complaint the cognizance has been taken and Joint Director of Education, VII Region, Gorakhpur proceeded to negate his complaint on 19.04.2023 on the ground that the father of the third respondent Jai Prakash Singh was in the office of the Secretary, Sahkari Ganna Vikas Limited for a period from 08.07.1976 to 16.07.1981. However, the crucial fact regarding the selection and the appointment of the third respondent, which was made in the year 1989, 03.08.1989 has not been taken into correct perspective as finding was recorded as to whether the father of the third respondent was already a member of the Committee of Management or of the Selection Committee at that point of time.

Sri Saurabh, learned Standing Counsel submits that the writ petition preferred by the writ petitioner is not maintainable, particularly in view of the fact that the writ petitioner is a complainant and once cognizance has been taken on the complaint and an order has been passed, the writ petitioner cannot in any

manner whatsoever has locus or cause of action to maintain the writ petition. Sri Saurabh further submits that in case there is any infirmity or illegality in the selection / appointment of Sri Jai Prakash Singh, then the instrumentality of the State empowered to take action shall take appropriate steps.

Considering the submission of learned counsel for the rival parties, this Court is of the opinion that the writ petition at the instance of the writ petitioner being a complainant is not maintainable and is accordingly **consigned to record** leaving it open to the State instrumentality empowered to make appropriate action may make an enquiry or take appropriate steps after affording opportunity to the concerned affected teacher.

Needless to point out that this Court has no reason to disbelieve that the said action shall be taken strictly in accordance with law.

Order Date :- 1.12.2023

N.S.Rathour