

Court No. - 35

Case :- WRIT - A No. - 20309 of 2023

Petitioner :- C/M Nanakchand Anglo Sanskrit College

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

Counsel for Petitioner :- Chandan Sharma, Sudha Singh

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

1. Heard Shri Chandan Sharma, learned counsel for the writ petitioner and Shri Ajeet Kumar Singh, learned Chief Standing Counsel for respondent nos. 1, 2 and 3.

2. The case of the writ petitioner is that the petitioner is a recognised institution and is governed under the provisions of the Uttar Pradesh State Universities Act, 1973. According to the writ petitioner Section 16-A (iii) of the Uttar Pradesh State Universities Act, 1973 enjoins that with respect to the appointment of an employee maintenance grant is to be granted by the State Government and the appointment can be made only after permission of the Director of Education (Higher Education), in para 10 of the writ petition, the writ petitioner has given a chart showing the number of the post, being two posts of Library Clerk & 5 post of Clerk/Junior Assistant and one post for Laboratory Assistant (Chemistry), as per the writ petitioner the aforesaid posts fell vacant on different dates. Information in this regard was given to the Regional Higher Education Officer, Meerut.

3. Learned counsel for the writ petitioner while inviting the attention towards paragraph Nos.14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 has sought to argue that earlier also writ petitions were preferred being Writ A No. 26271 of 2018 (C/M of Mahatma Gandhi Shanti Smarak Degree College, Ghazipur and another Vs. State of U.P. and two others). wherein challenge was laid to the order dated 04.09.2018 passed by the Director of Higher Education whereby there was a refusal to accord permission while relying upon the Government order dated 15.03.2012 which even in fact stood revoked by a subsequent Government Order dated 11.07.2013 with relation to the ban imposed on making appointment.

4. Learned counsel for the writ petitioner submits that in the case

of Writ A No. 26271 of 2018 (C/M of Mahatma Gandhi Shanti Smarak Degree College, Ghazipur and Another Vs. State of U.P. and two others) decided on 09.01.2019. This court held the action of the respondents in putting a ban pursuant to putting the cut off date 11.07.2013 to be illegal.

5. Grievance of the writ petitioner is that despite the fact that the respondents are enjoined to take appropriate decision but no action has been taken thus far.

6. Prayer in the present petition is for a direction to the second respondent to permit the petitioner-institution to fill up the vacancies on being the posts in issue.

7. Learned Additional Chief Standing Counsel, on the other hand, submits that the issues with the writ petitioner is raising had to be determined at the first instance by the second respondent Director, Higher Education Directorate Sarojini Naidu Marg, Civil Lines, Prayagraj, Uttar Pradesh who shall address to the claim of the writ petitioner. It is further submitted on behalf of the respondent that they do not propose to file any response to the writ petitioner.

8. Considering the submission of the rival parties as well as the 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 represent his cause before the second respondent, along with self attested copy of the writ petition and on the receipt of the same the second respondent who shall proceed to decide the same strictly in accordance with law, within a period of three months from the date of production of certified copy of this order.

9. Needless to point out that the passing of the order may not be construed to be an expression that the Court has adjudicated on the merits of the matter, as the writ petition has been decided without seeking any response.

Order Date :- 7.12.2023

S.A.