

Court No. - 7

Case :- WRIT - A No. - 244 of 2021

Petitioner :- Rizwana Khatoon

Respondent :- State Of U.P.Thru Addl.Chief Secy.Basic Education
Deptt.Andors

Counsel for Petitioner :- Vinod Kumar Singh

Counsel for Respondent :- C.S.C.,Ajay Kumar,Ravi Prakash Yadav

Hon'ble Abdul Moin,J.

1. Heard learned counsel for the petitioner, learned Standing counsel appearing for respondent nos.1, 2 & 5 as well as Shri Ravi Prakash Yadav, learned counsel appearing for respondent nos.3 & 4.

2. Learned counsel for the petitioner contends that the facts of the matter have already been stated by this Court in the order dated 26.10.2023.

3. For the sake of convenience, the order dated 26.10.2023 is reproduced below:

"1. Heard.

2. Under challenge is the order dated 16th October, 2020, a copy of which is annexure-1 to the petition, through which the representation of the petitioner - Rizwana Khatoon for appointment on the post of Assistant Teacher (Urdu) has been turned down. Further prayer has been made for issuance of Mandamus to the respondents to appoint the petitioner on the post of Assistant Teacher (Urdu) pursuant to the Notification dated 12th January, 2016.

3. The facts of the case, as set forth by the learned counsel for the petitioner, are that the Government issued an order dated 5th January, 2016, a copy of which is annexure-16 to the petition, for filling 3500 vacant posts of Assistant Teacher (Urdu). The petitioner claims to have appeared in the selection. She was having certificate of Moallim-e-Urdu, which is equivalent to B.T.C. Training Course, which issue has been set at rest with the judgment of this Court passed in a bunch of writ petitions, leading being Writ-A No.6004 of 2016 (Sartaj Ahmad and others Vs. State of U.P. and others) decided on 30th

January, 2018, a copy of which is annexure-4 to the petition.

4. Learned counsel for the petitioner contends that as per counter affidavit filed on behalf of respondent no. 4 it has been decided that the incumbents, who took admission in Moallim-e-Urdu Training Course prior to 11.08.1997 and cleared the same in Academic Sessions 1997-1998, would be entitled to be considered for appointment to the post of Assistant Teacher (Urdu).

5. The case of the petitioner is that she took admission in Moallim-e-Urdu Training Course on 22.07.1997 and succeeded in the selection held for appointment to the post of Assistant Teacher (Urdu), however, her claim for appointment to the post of Assistant Teacher (Urdu) had been rejected.

6. Initially, the petitioner along with four others filed Writ Petition No.5629 (S/S) of 2019 (Smt. Iram Siddiqui and others Vs. State of U.P. and others) which was decided on 15.07.2019, a copy of which is annexure-18 to the petition, requiring the competent Authorities to examine/scrutinize the issue minutely and, after being satisfied that the claim of the petitioner is justified, pass an order, in accordance with law, in the light of the direction issued by this Court vide judgment and order dated 30.01.2018 passed in the case of Sartaj Ahmad and others Vs. State of U.P. and others (supra).

7. Subsequent thereto, the claim of the petitioner has been rejected vide impugned order dated 16th October, 2020 primarily on two grounds; (a) as per Government Order dated 08.10.2018, there are too many Urdu Teachers working and more Urdu Teachers are not required and; (b) appointment of the petitioner will violate Government Order dated 08.10.2018. A reference has also been made in the impugned order regarding certificate of the petitioner of Moallim-e-Urdu being unverified and that the petitioner took admission prior to cut-of-date (11.08.1997).

8. Contention of learned counsel for the petitioner is that the impugned order has been passed in light of Government Order dated 08.10.2018, a copy of which is annexure-15 to the petition, which, in fact, pertains to subsequent advertisement issued for appointment of 4000 Assistant Teachers (Urdu) and, subsequently even if the selection has been cancelled on the ground that excess Urdu Teachers are working, the same would not govern the case of the petitioner inasmuch as the petitioner's selection is prior to issuance of Government Order dated 08.10.2018 i.e. covered by Government Order dated 05.01.2016 and thus, the entire grounds taken in the impugned

order, rejecting the claim of the petitioner for appointment on the post of Assistant Teacher (Urdu), would not sustain.

9. So far as the reference made with regard to Moallim-e-Urdu certificate of the petitioner being unverified is concerned, attention of this Court has been drawn towards the report of the District Level Committee dated 13.07.2020, a copy of which is annexure- 22 to the petition, per which the certificate that had been produced by the petitioner issued by the Deputy Registrar, Jamia Urdu, Aligarh Moallim-e-Urdu of having taken admission prior to cut-of-date 11.08.1997 (on 22.07.1997) has been verified.

10. Thus, the argument advanced on behalf of the petitioner is that the grounds taken by the respondents, while rejecting the claim of the petitioner for appointment to the post of Assistant Teacher (Urdu), are patently misconceived and have no concern with the selection process of the post and once the certificate of the petitioner of Moallim-e-Urdu has been verified, there cannot be any impediment in petitioner's appointment to the post of Assistant Teacher (Urdu).

11. On the other hand, learned counsel for the respondents, has stated that specific averments have been made in paragraph-5 of the counter affidavit filed on behalf of respondent no. 4, that verification of documents, as submitted by the petitioner, was made from Registrar, Jamiya Miliya Urdu, Aligarh, who submitted his report dated 25.07.2018 in which it was found that the petitioner had taken admission in Moallim-e-Urdu Course on 25.11.1997 and the petitioner's admission, being subsequent to the cut-of-date 11.08.1997, she cannot be considered to be having certificate equivalent to B.T.C. Training Course.

12. However, a copy of the verification report dated 25.07.2018 alleged to have been submitted by the Registrar, Jamiya Miliya Urdu, Aligarh has not been brought on record by respondent no. 4 while filing counter affidavit.

13. In this view of the matter, let a supplementary counter affidavit be filed within a week, annexing therewith the verification report, as indicated in paragraph-5 of the counter affidavit.

14. Let the matter be listed for further hearing on 08.11.2023, at 2.15 p.m."

4. In compliance of the aforesaid order, a Supplementary

Counter Affidavit dated 07.11.2023 has been filed by the learned counsel appearing for respondent nos.3 & 4 and along with the supplementary affidavit, a verification report has also been filed as annexure no.1.

5. A perusal of the said verification report would indicate that the same pertains to the date of deposit of the examination fee for the course of Moallim-e-Urdu by various persons including the petitioner which has been indicated as 15.10.1997. Also the date of 25.11.1997 has been indicated per which the petitioner had got herself registered for the examination for the post of Moallim-e-Urdu.

6. A perusal of the said report thus does not indicate that the petitioner had secured admission subsequent to the cut-off date which was 11.08.1997.

7. At this stage, it is pertinent to mention that it has already been indicated in the order dated 26.10.2023 passed by this Court that the certificate which has been issued by the Deputy Registrar, Jamia Urdu, Aligarh, a copy of which is annexure no.21 to the petition, would indicate that the date of admission of the petitioner in the Moallim-e-Urdu course is 22.07.1997 i.e. prior to the cut-off date of 11.08.1997. Even the report of District Level Committee dated 10/13.07.2020, a copy of which is annexure 22 to the petition, would indicate that the admission of the petitioner in Moallim-e-Urdu course has been verified and the date of admission has been indicated as 22.07.1997 which has been found to be correct.

8. Incidentally, the certificate issued by the Jamiya Miliya Urdu, Aligarh has been indicated in paragraph 38 of the petition and the certificate having been verified by the District Level Committee has been indicated in paragraph 41 of the writ

petition but in the counter affidavit which has been filed on behalf of the respondent no.4 dated 09.02.2022, the averments made in paragraphs 38 & 41 of the petition have been replied in paragraph 27 of the counter affidavit wherein no denial to the specific averments have been made rather the averments made in paragraphs 38 & 41 of the writ petition have been indicated to be a matter of record requiring no comment.

9. In this view of the matter, it is thus apparent that the respondents have not denied the certificate as issued by Jamiya Miliya Urdu, Aligarh per which the date of admission of the petitioner has been indicated as 22.07.1997 which would be prior to the cut-off date of 11.08.1997 and that the District Level Committee had duly verified the certificate of the petitioner and had found it to be correct and that the District Level Committee has duly recorded that the petitioner has secured admission in Moallim-e-Urdu course on 22.07.1997 which would again indicate the date of admission of the petitioner being prior to the cut-off date of 11.08.1997.

10. Accordingly, keeping in view of the aforesaid discussions, the writ petition is **allowed**. The order impugned dated 16.10.2023, a copy of which is annexure 1 to the petitioner, is **quashed**. A writ of mandamus is issued commanding the respondents to appoint the petitioner on the post of Assistant Teacher (Urdu) in any primary school under the Basic Shiksha Parishad, UP on the basis of her qualification. The compliance of this order be made within a period of six weeks from the date of the receipt of certified copy of this order.

Order Date :- 29.11.2023/S. Shivhare