

Court No. - 20

Case :- WRIT - A No. - 7521 of 2023

Petitioner :- Rakesh Kumar Tiwari

Respondent :- State Of U.P. Thru. Prin.Secy. Deptt. Of Home And 3 Others

Counsel for Petitioner :- Alam Singh, Anamika Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

1. Heard learned counsel for petitioner and learned State Counsel for opposite parties.
2. Petition has been filed challenging order dated 4th January 2023 and notice dated 5th January, 2023 whereby petitioners' names have been directed to be deleted from the data portal of the department with the net result that petitioners prior to passing of impugned orders were working on the post of volunteers in Prantiya Rakshak Dal stand terminated. Also under challenge is the order dated 5th January, 2023 whereby a notice/warning has been issued that in case any of the 290 terminated persons approach the authorities concerned regarding their termination, first information report against them would be filed.
3. In pursuance of aforesaid, instructions have been filed today in which in paragraph 11 thereof it has been indicated that the district magistrate had constituted a committee vide order dated 9th November, 2022 which submitted its report dated 3rd December, 2022 whereafter 347 such volunteers were required to be present before the committee and in fact were present whereafter the impugned order have been passed. However the counter affidavit does not indicate any personal notices having been effected upon the petitioners.
4. Learned counsel for petitioners has in fact adverted to the instructions to submit that the opposite parties themselves have stated that in pursuance of formation of committee, all the concerned volunteers were informed by public notice to appear before the committee. On the basis of instructions, learned counsel for petitioners denies any personal notice having ever been served upon petitioners.
5. Upon consideration of aforesaid submissions and material on record, it is evident that no personal notice was ever issued to the petitioners prior to passing of the impugned orders. The impugned order itself does not indicate any personal notice having ever been served upon any of the petitioners. Although

the impugned order indicates that an opportunity of hearing was granted to the petitioners but even if assuming the aforesaid to be correct, there does not appear to be any deliberation or consideration of submissions of the petitioners even if they had appeared before the said committee.

6. In view of aforesaid, it is quite evident that impugned orders have been passed without being served with any personal notice or being provided any opportunity of hearing or even consideration of their stand.

7. The aspect that even post decisional hearing has not been granted to petitioner is also evident from the notice dated 5th January, 2023 whereby the opposite parties in fact have issued a warning to the 290 volunteers whose name have been deleted not to approach any of the authorities concerned failing which first information reports under Section 186 and 353 IPC have been directed to be lodged.

8. In view of aforesaid facts and circumstances that impugned order dated 4th January, 2023 has been passed without consideration/ stand of the petitioners, same is quashed by issuance a writ in the nature of Certiorari granting liberty to opposite parties to pass order afresh after serving them with notice to appear before the committee on a date, time and place which has been fixed and indicated in the notice itself. Fresh orders shall be passed after considering the stand of petitioners. The entire exercise is to be completed by opposite parties within a period of two months from the date a certified copy of this order is produced before the concerned authority.

9. Service benefits to petitioners shall abide by the final decision taken. The impugned notice dated 5th January, 2023 being against all norms is also quashed by issuance a writ in the nature of Certiorari.

10. Since admittedly petitioners have been performing their duties for the past 20 years without apparently any complaint against them and also keeping in view directions passed by this Court in similar matters in writ A No. 4155 of 2023 (Jawahar and 26 others versus State of U.P. and others), it is directed that till conclusion of aforesaid inquiry, petitioners shall be allowed to work as volunteers in P.R.D. and paid their honorarium.

11. Resultantly the petition succeeds and is **allowed**. Parties to bear their own cost.

Order Date :- 12.10.2023
Satish