

Court No. - 7

Case :- WRIT - A No. - 7970 of 2023

Petitioner :- Awadhesh Kumar

Respondent :- State Of U.P. Thru. Secy.Secondary Education
And 5 Others

Counsel for Petitioner :- Sudhir Pande

Counsel for Respondent :- C.S.C.

Hon'ble Abdul Moin,J.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the respondents.

2. The petitioner, an adhoc teacher, is before this Court challenging the order dated 14.09.2023, a copy of which is Annexure-1 to the writ petition, whereby the District Inspector of Schools has sent a selected candidate in pursuance to the advertisement no.2 of 2021 for joining as a regular teacher after selection by the U.P. Secondary Education Services Selection Board, Prayagraj.

3. The contention of learned counsel for the petitioner is that the petitioner is working as an adhoc teacher since the year 2003. His salary payment has also been directed by this Court vide order dated 24.05.2004 passed in Writ Petition No.2686 (SS) of 2004, a copy of which has been filed as Annexure-9 to the writ petition.

4. Various grounds have been taken by learned counsel for the petitioner raising a challenge to the order impugned by contending that (a) the Board itself has been done away with w.e.f. 17.08.2023, (b) even if a waiting list would have been prepared in terms of advertisement no.2 of 2021 it had a life of one year, and (c) as per rule 12(10) of the U.P. Secondary Education Services Selection Board Rules, 1998 (hereinafter referred to as the 'Rules, 1998'), it is only the Board which could have sent the teacher and not the District Inspector of Schools.

5. However, Sri P.K. Singh, learned Additional Chief Standing Counsel appearing on behalf of the State, states that a perusal of the order impugned would indicate that the said order has been passed in pursuance to certain directions issued by the Director of Education (Madhyamik) dated 01.09.2023 as well as the order issued by the State Government dated 31.03.2023. He

contends that both the orders have not been challenged in the instant writ petition. It is further contended that a perusal of the order impugned would also indicate that the order has been passed in pursuance to the directions issued by the writ Court and there is not even a whisper in the petition as to whether the said order passed by the High Court would pertain to the petitioner or not. It is thus prayed that as the order impugned dated 14.09.2023 is a consequence to the main orders dated 31.03.2023 and 01.09.2023 and the main orders have not been challenged as such the instant petition is itself not maintainable having challenged the consequential order without raising any challenge to the main orders despite the main orders being indicated in the order impugned.

6. Having heard learned counsel for the parties and having perused the records, what emerges is that the petitioner, an adhoc teacher, has challenged the order dated 14.09.2023 by which a regularly selected candidate has been sent. Various grounds have been urged by learned counsel for the petitioner while raising a challenge to the order impugned.

7. However, considering the preliminary objection as raised by learned Additional Chief Standing Counsel that the order impugned dated 14.09.2023 has been passed in pursuance to the orders issued by the State Government dated 31.03.2023 and 01.09.2023 to which no challenge has been raised by learned counsel for the petitioner apart from the fact that the order itself indicates about the said order having been passed in pursuance to the directions issued by the High Court to which learned counsel for the petitioner has not even indicated anything and also considering that the order impugned is a consequence to the orders dated 31.03.2023 and 01.09.2023 and no challenge has been raised to the main orders and it being a settled proposition of law that a consequential order cannot be challenged without raising a challenge to the main order, the Court upholds the preliminary objection as raised by learned Additional Chief Standing Counsel and dismisses the writ petition.

Order Date :- 13.10.2023

A. Katiyar