

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8052 of 2023

Petitioner :- Balendra Kumar Mishra

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Home And Others

Counsel for Petitioner :- Jay Prakash Singh

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Karunesh Singh Pawar,J.

1. Heard learned counsel for the petitioner and learned A.G.A. who appears on behalf of the State Respondents.

2. This petition has been filed with the following main prayers:-

"A. a writ, an order or direction in the nature of certiorari quashing the impugned FIR dated 01.04.2021 registered as F.I.R. No. 0085/2021 u/s 419, 420, 467, 468, 471 -IPC, PS-Kotwali Nagar, District- Balarampur in respect of the petitioners, contained as Annexure No.01 to this writ petition.

B. a writ in the nature of mandamus commanding the opposite parties not to harass and arrest the petitioner in view of F.I.R. No. 0085/2021 u/s 419, 420, 467, 468, 471-IPC, PS-Kotwali Nagar, District- Balarampur."

3. It has been submitted by the learned counsel for the petitioner that the petitioner and 91 other persons alleged to have been appointed on the post of Assistant Teacher in 2019 in the School runs by Basic Shiksha Parishad on the basis of false certificate.

4. It has been submitted that the service of the petitioner were terminated on 14.08.2020 and he challenged the said termination order in Writ Petition No. 20471 (SS) of 2020, 'Balendra Kumar Mishra Vs. State of U.P. and Others'. This Court by its order dated 11.11.2020 set aside the termination order and directed the department to proceed afresh. In the meantime, the Court also directed reinstatement in service and payment of regular salary to the petitioner. The petitioner has not been allowed to join to post till date.

5. It has also been submitted by learned counsel for the petitioner that the F.I.R. has been lodged after alleged offence was carried out some 12 years ago.

6. This Court has perused the F.I.R., a regular fact finding inquiry was conducted before lodging of the F.I.R. against 92 other persons who are similarly situated and have been alleged to have obtained their appointment as Assistant Teacher in the schools runs by Basic Shiksha Parishad on the basis of forged certificate.

7. This Court finds from the perusal of the F.I.R. that the cognizable offence is made out, therefore, this Court sitting extraordinary jurisdiction under the Article 226 cannot quash the same on the initial stage.

8. The writ petition is ***disposed of*** with a direction to the petitioner to approach the appropriate forum by filing a bail application.

Order Date :- 17.10.2023

Darpan Sharma