

Court No. - 7

Case :- WRIT - A No. - 8826 of 2023

Petitioner :- Vineeta Gupta

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Basic Education Lko. And 6 Others

Counsel for Petitioner :- Sanjai Kumar,Raj Kr Singh
Suryvanshi,Sonal Bajpai

Counsel for Respondent :- C.S.C.,Rishabh Tripathi,Sarvesh Kumar Dubey

Hon'ble Abdul Moin,J.

1. Heard learned counsel for the petitioner, learned Standing Counsel for the respondents no. 1 & 2, Shri Sarvesh Kumar Dubey, learned counsel for the respondent no. 3 and Shri Rishabh Tripathi, learned counsel for the respondent no. 4 .

2. As the order impugned dated 29.09.2023 has been passed by the respondent no. 4 as such with the consent of Shri Rishabh Tripathi, learned counsel appearing for the respondent no. 4 the matter is being finally decided.

3. No notice be issued to respondents no. 5 to 7 taking into consideration the nature of order proposed to be passed.

4. Bereft of unnecessary details the facts of the case are that the petitioner while working as Warden on contractual basis in the Kasturba Gandhi Balika Vidyalaya Block Pahela, District Sitapur was issued a notice dated 21.06.2023, a copy of which is annexure 21 to the petition, whereby he was required to be present on 26.06.2023 for hearing. Admittedly the hearing could not took place on 26.06.2023. Meanwhile the respondents vide the order dated 26.06.2023, a copy of which is annexure 28 to the petition, put an end to contractual services of the petitioner.

5. The petitioner being aggrieved filed Writ A No. 6386 of 2023 and this Court vide judgement and order dated 28.08.2023, a copy of which is annexure 29 to the petition, disposed of the

petition with a direction to the respondents to take decision in pursuance to the show cause notice dated 21.06.2023 to which the petitioner had already submitted her reply. The petitioner was also given liberty to challenge the subsequent order if so advised in accordance with law. In pursuance to the directions issued by the writ court the respondent no. 4 has passed the order impugned dated 29.09.2023, a copy of which is annexure 1 to the petition, whereby it has been decided not to extend the contractual services of the petitioner

6. The ground raised by learned counsel for the petitioner while challenging the order impugned is that when through the notice dated 21.06.2023 the respondents had fixed a date for personal hearing on 26.06.2023 and as per the order impugned no hearing could take place on 26.06.2023 consequently they were required to fix another date for personal hearing and they could not have passed the order impugned without adhering to the notice dated 21.06.2023 i.e affording opportunity of personal hearing to the petitioner and thus the order impugned merits to be set aside on this ground alone.

7. On the other hand, Shri Rishabh Tripathi, learned counsel appearing for the respondent no. 4 fairly states that no hearing could take place on 26.06.2023 yet the order dated 29.09.2023 was passed considering the directions issued by the writ court dated 28.08.2023 and considering the reply which had been submitted by the petitioner and thus there is no illegality and infirmity in the order impugned.

8. Having heard learned counsel for the parties and having perused the record what emerges is that through the notice dated 21.06.2023 a date of personal hearing of 26.06.2023 had been fixed on which date the petitioner was required to appear. Admittedly no hearing was afforded to the petitioner on the said

date on account of reasons contained in the order impugned. Meanwhile the respondents have passed the order impugned dated 29.09.2023 on the pretext that the writ court vide the order dated 28.08.2023 had required the respondents to pass an order after considering the reply of the petitioner. There can be no quarrel to the order passed by the writ court dated 28.08.2023 but obviously once the respondents vide notice dated 21.06.2023 had fixed a date for personal hearing for the petitioner on 26.06.2023 and admittedly the hearing could not take place on the said date consequently it was in the fairness of things that another date should have been fixed on which date the petitioner could have been heard. The respondents could not take the pretext of the order of the writ court dated 28.08.2023 to decide the matter after considering the reply of the petitioner without affording opportunity of hearing to the petitioner as indicated in the notice dated 21.06.2023.

9. Considering the aforesaid the writ petition deserves to be allowed and is **allowed**. The order impugned dated 29.09.2023, a copy of which is annexure 1 to the writ petition, is set aside.

10. The matter is remitted to the respondent no. 4 to pass a fresh order in accordance with law by fixing a date for hearing of the petitioner as per the notice dated 21.06.2023 itself. After the date for hearing is fixed the respondents will proceed to pass an order in accordance with law which order and the fixing of date for hearing would be done within a period of four weeks from the date of receipt of certified copy of this order.

Order Date :- 17.11.2023

J.K. Dinkar