

Court No. - 7

Case :- WRIT - A No. - 9506 of 2023

Petitioner :- Gahna Sinha

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

Counsel for Petitioner :- Vinay Misra, Abdul Majid, Amulya Pandey

Counsel for Respondent :- C.S.C., Ran Vijay Singh, Uday Veer Singh

Hon'ble Abdul Moin, J.

Heard learned counsel for the petitioner, learned Standing Counsel for the respondents no. 1, 2 & 3, Shri Ran Vijay Singh, learned counsel for the respondent no. 5 and Dr Uday Veer Singh, learned counsel for the respondents no. 5 to 7.

With the consent of learned counsel appearing for the contesting parties, the writ petition is being finally decided.

Under challenge is the order dated 19.10.2023, a copy of which is annexure 1 to the petition, by which the appointment order of the petitioner has been cancelled.

The contention of learned counsel for the petitioner is that the petitioner had been appointed vide the appointment order dated 21.09.2015 as Assistant Teacher (Science) in a Upper Primary School in the District Barabanki. Subsequently the petitioner had been issued various notices by the respondents calling upon her to explain the discrepancy in the physical verification of certificates of intermediate and TET vis a vis the details uploaded online.

It is contended that as the petitioners' marriage was on the rocks consequently she was unable to respond to the said notices rather she prayed for some more time for submission of reply but to no avail and the respondents vide the order impugned dated 19.10.2023 after noticing that there is no discrepancy in the offline certificates of the petitioner in intermediate and TET but there is a discrepancy in online forms, has cancelled the appointment order of the petitioner.

The contention of learned counsel for the petitioner is in two folds namely (a)

when the petitioner had requested the respondents to grant further time for submitting reply on account of her personal difficulty consequently the respondents should have granted further time to her to submit her reply instead of terminating her services by means of the order impugned and (b) from the order impugned itself it emerges that the respondents have categorically admitted that in the physical verification of her certificates of intermediate and TET there is no discrepancy but in online forms there is discrepancy.

The contention is that when the certificate of the petitioner in physical verification has been found to be genuine consequently there cannot be any occasion for the petitioner to have uploaded wrong details online and as such the order of the respondents is self contradictory.

It is also contended that the online details are filled in by the service provider at the block level and the petitioner had no role in the online filling of the details.

On the other hand, Shri Ran Vijay Singh, Dr Uday Veer Singh as well as learned Standing Counsel, learned counsels appearing for the respondents, have defended the order impugned on the ground that when the certificates of the petitioner the same have been found to be fake and fictitious consequently no error has been committed by the respondents while cancelling the appointment order of the petitioner after affording due opportunity of hearing to the petitioner.

Having heard learned counsel for the parties and having perused the record what emerges from perusal of the order impugned is that the respondents have categorically stated that on physical verification of the intermediate and TET certificate of the petitioner the same have been found to be correct but the online details have been found to be incorrect.

It does not stand to logic that once the petitioner was having the physical certificate with her and the said certificates have been found to be genuine as to why she would upload wrong details.

However without going into the merits of the uploading part of the details i.e. as

to whether the same had been done by the petitioner or by the service provider as the said uploading details have also not been dealt with in the order impugned apart from the fact that the petitioner on account of suffering from personal problems was unable to submit a reply to the repeated notices that had been issued by the respondents and with the consent of parties the order impugned dated 19.10.2023, a copy of which is annexure 1 to the petition, is set aside.

It is provided that the petitioner shall appear before the District Basic Shiksha Adhikari, Barabanki i.e. the respondent no. 5 with her reply to the show cause notice that had been issued by the respondents on 20.12.2023, a date suggested by learned counsel for the petitioner.

The competent authority shall consider the reply of the petitioner and pass reasoned and speaking order upon the same.

Let an order in this regard be passed within a period of four weeks for the date the petitioner submits her reply before the authority concerned.

It is also provided that in case the petitioner fails to appear before the authority concerned then the benefit of this order shall not be available to her.

Order Date :- 14.12.2023

J.K. Dinkar