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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6430/2016 & CM APPLs. 26344/2016 & 31659/2016

VINAY KAUSHIK

..... Petitioner

Through: Mr. Konark Tyagi, Adv.

versus

SHREE LAL BAHADUR SHASTRI RASHTRIYA SANSKRIT

VIDYAPEETHA AND ORS

..... Respondents

Through: Mr. Sandeep Sethi, Sr. Adv. with
Mr. Shibashish Misra, Adv. for R-1.
Mr. Manoj Ranjan Sinha, Adv. for
R-3.
Mr. Dev P. Bhardwaj, CGSC with
Mr. Jatin Teotia, Adv. for R-4.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

06.03.2019

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1. Petitioner has filed this writ petition in public interest and the prayer made in the writ petition reads as under:

“(a) Issue a writ of quo warranto or a writ or order or direction of the appropriate nature be issued to Respondent No.2 requiring him to show the authority under which he holds the office of Registrar of Shri Lal Bahadur Shastri Rashtriya Sanskrit Vidyapeetha, New Delhi and he be restrained from functioning as such.

(b) Issue a writ, order or direction in the nature of certiorari to quash the part of the amended bye laws, 2008 & 2011-12 of Respondent No.1 which have been amended only to

accommodate the continuation of Respondent No.2 as permanent Registrar in Respondent No.1, being violative of Notification No. F. 10-52/87-Desk (J) dt. 02.11.1988, issued by the Govt. of India, Ministry of HRD and the guidelines/report and notification of UCC's letter No.F-39-3/2004 (CU/JCRC) dated 26.5.2005 and the Fact Finding Committee report dt. 20.12.2013 constituted by Ministry of HRD, Govt. of India.

(c) Issue a writ, order or direction in the nature of certiorari quashing the Office Order No. LBSV/Admn./2004-2005/4502 dt. 20.12.2005 issued by Respondent No.1 by which Respondent No.2 was confirmed in the post of Registrar in Respondent Vidyapeetha (Respondent No.1).

(d) Issue a writ, order or direction in the nature of prohibition restraining Respondent No.1 from releasing to the Respondent No.2 post retirement benefits on the basis of his unauthorized service since dt. 29.9.2008.

(e) Call for the records of the case from Respondent No.1, 3 & 4.

(f) Award the cost of the litigation.

(g) Pass such other or further order (s) or direction as this Hon'ble Court may deem fit and proper."

2. Petitioner was a student who was studying in the Vidyapeetha in question and challenges the appointment of respondent No.2. We are informed that respondent No.2 has already demitted office on 31.08.2016 on completing the age of 62 years. He is no more in service and therefore the prayer made for issuing a writ of *quo warranto* and removing him from office is now rendered infructuous. However, learned counsel for the petitioner argued that in view of the facts and circumstances mentioned herein the entire pensionary benefit and other benefits paid to the respondent No.2 should now be recovered and further payment of pension and post-retiral benefits should be restrained.

3. Even though learned counsel for the petitioner relying on the following judgments of the Supreme Court in the cases of *Radha Kishun v. Union of India*, (1997) 9 SCC 239 and *Krishna Hare Gaur v. Vinod Kumar Tyagi & Ors.*, (2015) 11 SCC 355 and submitted that when the respondent has been appointed in an illegal manner, the monetary benefits and the post retiral benefits payable to him can be recovered and the respondent rebutted the aforesaid contention by inviting our attention to an unreported judgment rendered by a Division Bench of this Court in the case of *Vinay Kaushik v. Union of India & Ors.*, W.P.(C) 1837/2016 decided on 11.04.2018 to say that when the challenge is adventurous in nature and it does little service to the institution, interference should not be made.

4. In our considered view, once the respondent has completed his tenure and has demitted office on attaining the age of superannuation, now, in a Public Interest Litigation at the instance of the petitioner, we are not inclined to go into the question of withholding or recovery from his pension.

5. The writ petition is accordingly dismissed as the main relief for unseating the respondent No.2 from office is now rendered infructuous. The pending applications also stands disposed of accordingly.

CHIEF JUSTICE

V. KAMESWAR RAO, J

MARCH 06, 2019

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