HIGH COURT OF UTTARAKHAND AT NAINITAL

Special Appeal No.5 of 2024

12 December, 2024

Snehlata --Petitioner

Versus

State Of Uttarakhand and Others --Respondents

Presence:

Mr. M.C. Kandpal, learned senior counsel assisted by Mr. Chitrarth Kandpal, learned counsel for the appellant.

Mr. P.C. Bisht, learned Additional C.S.C. with Mr. J.C. Pande, learned Standing Counsel for the State of Uttarakhand.

Coram: Hon'ble Manoj Kumar Tiwari, A.C.J.
Hon'ble Pankaj Purohit, J.

Hon'ble Manoj Kumar Tiwari, A.C.J. (Oral)

This Intra Court Appeal has been filed by the appellant challenging the judgment dated 01.08.2022 passed by the learned Single Judge in WPSS No.3605 of 2017. The relevant extract of the said judgment is extracted below:

> *".....Hence, this Court, at this stage, is not venturing into the propriety of an order dated 1st November 2017, impugned in the writ petition. However, by way of an equity only an exception is carved out, that Director Elementary Education, would look into the matter, and in case if the Special Investigation Team; as directed to be constituted by the Division Bench of this Court, is still available, the petitioner would ensure to produce her all testimonials before it to be verified by the Special Investigation Team, and the Special Investigation Team, is expected to take into consideration the documents thus to be produced by the petitioner, within a period, as directed above, and they will take a decision on the same within a period of next six weeks from the date of the receipt of the certified copy of the order.*
>
> *Subject to the aforesaid exceptions, which have been exclusively carved out in order to maintain the equity, in my exercise of extraordinary jurisdiction under Article 226 of the Constitution of India, the writ petition stands disposed of."*

2. It is not in dispute that appellant was appointed as Assistant Teacher in a school run by Basic Education Board U.P.

in the year 1997. Her status underwent a change and she became government servant in terms of provision contained in Section 58 of the Uttarakhand School Education Act 2006. Appellant retired from the post of Head Mistress, Government Primary School on 28.02.2017. Since, appellant's retiral dues were not released after her retirement, therefore, she made representation to the Competent Authority. District Education Officer (Elementary Education), Haridwar passed an order dated 01.11.2017 providing that since, appellant did not produce her educational certificates before Special Investigation Team (SIT) despite repeated requests, therefore, her retiral dues shall not be released.

3. Appellant challenged the said order passed by District Education Officer (Elementary Education), Haridwar in WPSS No.3605 of 2017. Said writ petition was disposed of by providing that the petitioner shall produce all her testimonials before the SIT and the SIT shall examine her educational certificates within six weeks thereafter. Appellant has challenged the judgment passed by learned Single Judge in this Appeal.

4. Learned senior counsel for the appellant submits that authorities suspect that appellant secured appointment as Assistant Teacher based on forged documents, however, it is also not clear regarding which certificate, respondents have doubt in their minds. He further submits that in cases where authorities of education department have definite information that a Teacher has secured appointment based on forged certificates, in those cases FIR were lodged and cases were referred to SIT, however, no FIR has been registered against appellant and her case was also not referred to the SIT.

5. Per contra, learned State Counsel submits that in view of complaints received from various Quarters that persons

serving as Teachers and even retired Teachers, were appointed on the basis of forged certificates. In view of such complaints, educational certificates of all Teachers are being screened. He further submits that appellant was also asked to produce her educational certificates before the Special Investigation Team (SIT) constituted for the purpose. However, despite repeated requests/ notices and publication in newspapers, appellant failed to produce her educational certificates, which creates a reasonable doubt in the mind of the authorities that she was not qualified for appointment as Teacher and she secured appointment based on forged certificates.

6. Learned State Counsel supports the judgment rendered by learned Single Judge by contending that learned Single Judge has merely provided that appellant shall produce all her educational certificates before the SIT and SIT was to examine those certificates and take decision within six weeks. Thus, he submits that any interference with the judgment rendered by learned Single Judge would not be warranted.

7. Learned State Counsel also referred to the directions issued by Division Bench of this Court in WPPIL No.37 of 2020, particularly, the order passed on 05.10.2023. Para 9 of the said order is extracted below:

> *"9. We would like the respondents to finalize the show cause notices without any delay, positively within the next three weeks. The State should also place the list of Writ Petitions pending before this Court, which have been preferred by the teachers, against whom the allegations is that they have produced forged and fabricated certificates. The list be filed before the next date. The process of verification of certificates of all other teachers should positively be concluded within the next six weeks. A further status report should be filed before the next date."*

8. After hearing learned counsel for the parties, we are of the considered view that non-furnishing of educational certificates by the appellant, despite repeated requests/notices,

was sufficient to withhold release of her retiral dues. To clear the doubt regarding her eligibility for appointment, it was incumbent upon the appellant to appear before the SIT and furnish all educational certificates, which she had produced for seeking appointment as Assistant Teacher.

9. We, therefore, modify the impugned judgment and dispose of the Special Appeal by providing that the appellant shall furnish all her educational certificates, copy whereof were submitted by her for seeking appointment, before District Education Officer (Elementary Education), Haridwar within a period of four weeks from today. The District Education Officer (Elementary Education), Haridwar shall examine the certificates produced by the appellant and also get them verified, if need be, within next six weeks. If everything is found in order, then concerned District Education Officer shall pass order for releasing the retiral dues to the appellant. If any discrepancy is found in the educational certificates of the appellant or if the District Education Officer has some doubt regarding genuineness of the certificates, then, it shall be open for him to refer the matter to SIT and the SIT shall do the needful, as per law, within four months thereafter.

10. Pending application, if any, also stands disposed of.

(Pankaj Purohit, J.) **(Manoj Kumar Tiwari, A.C.J.)**

12.12.2024

PN/-

PREETI NEGI