Court No. - 5

Case :- WRIT - A No. - 12027 of 2024

Petitioner :- Salman Ansari
Respondent :- State Of U.P. Thru. Prin. Secy. Basic Education Lko. And 3 Others
Counsel for Petitioner :- Anoop Vajpayee,Atul Kumar Yadav
Counsel for Respondent :- C.S.C.,Prashant Kumar Singh,Ran Vijay Singh

Hon'ble Abdul Moin,J.

Heard learned counsel for the petitioner, Sri Ashutosh Mishra, learned counsel for the respondents no. 1 & 3, Sri Ran Vijay Singh, learned counsel for the respondent no. 2 and Sri Abhay Kumar, Advocate holding brief of Sri Prashant Kumar Singh, learned counsel for the respondent no. 4.

Under challenge is the order dated 23.11.2024, a copy of which is annexure 1 to the writ petition whereby the claim of the petitioner for compassionate appointment has been rejected.

Case set forth by the learned counsel for the petitioner is that the petitioner's brother namely Mohd.Shahban who was working as an Assistant Teacher under the respondent no. 4 died in harness on 15.10.2023. As Mohd. Shahban was unmarried consequently, the petitioner staked his claim for being appointed on compassionate grounds under the relevant rules. Along with the application, the petitioner had annexed the succession certificate as has been issued by the office of the District Magistrate, Hardoi dated 07.12.2023, no objection certificate issued by his mother and other family members, a copy of which is annexure 5 to the writ petition as well as succession certificate as has been issued by the competent Court of law namely the Court of the learned Civil Judge (Junior Division), West Hardoi dated 27.05.2024, a copy of which is annexure 6 to the writ petition which specifically indicates the name of the petitioner as the Successor.

It is contended that the competent authority has only considered the succession certificate that had been issued by the office of the District Magistrate, Hardoi while rejecting the claim of the petitioner for compassionate appointment vide order dated 23.11.2024 solely on the ground that the succession certificate that has been issued by the office of the District Magistrate, Hardoi does not indicate his name but has failed to consider the succession certificate that had been issued by the competent Court of law although a reference of the said order has

been made in the order impugned.

Perusal of the order impugned dated 23.11.2024 would indicate that although the competent authority has referred to the succession certificate which has been issued by the competent Court of law dated 27.07.2024 but thereafter rejected the claim of the petitioner on the basis of succession certificate that has been issued by the office of the District Magistrate, Hardoi and indicating that the name of the petitioner does not find placed in the said succession certificate.

Once the succession certificate had been issued by the competent Court of law namely learned Civil Judge (Junior Division), West Hardoi dated 27.05.2024 and the same has already been referred to in the initial part of the order consequently, non consideration of the same while rejecting the claim of the petitioner while passing the order impugned reflects patent non application of mind on the part of the respondent no. 4 and thus the order impugned merits to be set aside on this ground alone.

Keeping in view the aforesaid discussion, the writ petition is allowed. The order impugned dated 23.11.2024, a copy of which is annexure 1 to the writ petition is quashed.

The respondent no. 4 is directed to pass a fresh order in accordance with law and the relevant rules.

Let such an order be passed within a period of six weeks from the date of receipt of a certified copy of this order.

Order Date :- 13.12.2024
Pachhere/-

Digitally signed by :-
SATYENDRA SINGH PACHHERE
High Court of Judicature at Allahabad,
Lucknow Bench