

**Court No. - 3**

**Case :-** WRIT - A No. - 20954 of 2019

**Petitioner :-** Rajendra Prasad

**Respondent :-** State Of U.P. And 4 Others

**Counsel for Petitioner :-** Upendra Kumar

**Counsel for Respondent :-** C.S.C., Vikram Bahadur Singh

**Hon'ble Saral Srivastava,J.**

Heard learned counsel for the petitioner, learned Standing Counsel appearing for respondents No.1, 2 and 3, Sri Vikram Bahadur Singh, learned counsel appearing for respondents No.4 and 5.

By means of the present petition, the petitioner, who is Shiksha Mitra, has prayed for is absorption at his original place of posting at Primary Schools in different blocks in district Fatehpur in pursuance of the Government Order dated 19.7.2018 as well as circulars dated 23.7.2018 and 3.8.2018 issued by respondents No.1, 2 and 3.

Learned counsel for the petitioner contends that the petitioner was initially appointed as Shiksha Mitra on various dates. Thereafter in pursuance of the Government Orders dated 13.6.2014 and 30.6.2014 the petitioner was absorbed against the post of Assistant Teacher. Upon a challenge being made, his appointment as Assistant Teacher was set-aside as a result of which all the petitioners are now working as Shiksha Mitras.

It is contended that in terms of the Government Order dated 19.7.2018 and circulars that have been issued from time to time namely circulars dated 23.7.2018 and 3.8.2018, the Government has provided that an endeavour should be made to post the Shiksha Mitras at their original institutions. It is contended that despite the said Government Order and circulars being in existence and sufficient vacancies being available with the institutions in which the petitioner was earlier working, no action has been taken for his posting. It is further contended that the respondents on one hand are not posting the petitioner in his original institutions and on the other hand by adopting a pick and choose manner the respondents have proceeded to post various Shiksha Mitras to their original institutions.

On the other hand, Sri Vikram Bahadur Singh, learned counsel for respondents No.4 and 5 contends that guidelines have been sought for from the Director, Basic Education and Secretary, Basic Education as to how the Government Order dated

19.7.2018 is to be operated inasmuch as the said Government Order provides that where excess teachers are posted their adjustment should be made by a committee headed by the District Magistrate. It is contended that once the Government Order has been issued for adjustment of the Shiksha Mitras to their original institutions, consequently there should not be any occasion for adjustment of teachers and taking into consideration the aforesaid abnormal situation, guidelines have been sought for.

Having heard the learned counsel for the parties and having perused the record, what this Court prima facie finds is that the issue of posting of Shiksha Mitras to their original institutions is to be decided by the Basic Shiksha Adhikari at the first instance in terms of the Government Order dated 19.7.2018 read with circulars dated 23.7.2018 and 3.8.2018. Once such exercise is to be done by the Basic Shiksha Adhikari, consequently at this stage the Court is not required to go into the dispute as to where the petitioner is to be posted inasmuch as the same is to be done in pursuance of the Government Order dated 19.7.2018 and taking into consideration the strength of the teachers and Shiksha Mitras.

Accordingly, without entering into the merit of the case, present petition is disposed of requiring the petitioner to submit representation to the Basic Shiksha Adhikari, Fatehpur for his posting at his original institutions within a period of two weeks from today. In case such representations are made by the petitioner, the same shall be considered by the Basic Shiksha Adhikari, Fatehpur i.e. respondent No.5 in the light of the Government Order dated 19.7.2018 and circulars dated 23.7.2018 and 3.8.2018 within a period of four weeks from the date of receipt of a certified copy of this order along with representations.

**Order Date :- 20.12.2019**

Ravi Kant