

Court No. - 32

Case :- WRIT - A No. - 1582 of 2019

Petitioner :- C/M Thakur Shiv Narain Singh Purva Madhyamik Vidyalaya
And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Hritudhwaj Pratap Sahi, Samarath
Singh, Sankalp Narain

Counsel for Respondent :- C.S.C., Mohd Shere Ali

Hon'ble Siddharth, J.

Heard learned counsel for the petitioner and learned
Standing Counsel for the State-respondents.

The petitioner is the Committee of Management of Thakur
Shiv Narayan Singh Purva Madhyamik Vidyalaya
Bhagawanpur Bazar Nautanwa, District- Maharajganj,
and has approached this Court praying for direction to the
respondent no. 4, District Basic Education Officer,
Maharajganj, to permit the petitioner to advertise the post
for selection and appointment on the post of Class III
lying vacant since 2014.

Learned counsel for the petitioners has relied upon the
judgment of this Court in the case of **Committee of
Management, Manorama Kanya Junior High School,
Moradabad and another Vs. State of U.P. and 2 others
passed in Writ-A No.5418 of 2019** and has submitted
that the above writ petition was decided by the following
order:-

"34. Consequently, the Government Order dated
15.01.2019, insofar as it declares Class-III and Class-IV
posts in junior high schools to be a dead cadre, is found
to be wholly arbitrary, irrational, suffering from non
application of mind and violative of Articles 14 & 21-A of
the Constitution of India as also in teeth of the Act of
2009. The Government Order to that extent, accordingly,
stands quashed. All consequential orders passed in the
present bunch of writ petitions passed on different dates,
declining permission to fill up the posts of Clerks and
Class IV employees following the said Government Order,
under challenge in the present bunch of petitions, are also
quashed.

35. As a consequence, the post in Class III and Class IV
cadre, already sanctioned vide Government Order dated
2nd July, 1990, shall continue to exist and it shall be open
to the private management to make appointments against

it by following the procedure laid down in the Rules of 1984."

Therefore, the petitioner is entitled to advertise the vacancy for three posts of Class III, which post is required to be filled at the earliest.

Learned Standing Counsel has placed before this Court the order dated 22.2.2022 passed in Special Appeal Defective No.30 of 2022, whereby the aforesaid judgment of the learned Single Judge has been challenged. However, from the aforesaid order it is clear that no interim order has been granted in favour of the State. The appeal has only been admitted for hearing and directed to be listed for hearing after four months.

The respondent No.4, District Basic Education Officer, Maharajganj is directed to permit the petitioner to advertise the three posts of Class IV employees vacant in the institution for last more than 8 years within a period of two weeks from the date of the production of a copy of this order downloaded from the official website of Allahabad High Court is placed before him.

However, appointment made on the post of Class III post shall be subject to the final outcome of Special Appeal Defective No. 30 of 2022.

The impugned orders dated 15.01.2019 and 15.11.2018, passed by the State Government and Basic Shiksha Adhikari are hereby quashed.

The writ petition is allowed.

Order Date :- 31.3.2022

SS