

**Court No. - 18**

**Case :-** WRIT - A No. - 7187 of 2024

**Petitioner :-** Kamlesh Kumar

**Respondent :-** State Of U.P. Thru. Addl. Chief Secy. Secondary Edu. Deptt. Lko And 5 Others

**Counsel for Petitioner :-** Mahendra Pratap Singh, Ranjit Singh

**Counsel for Respondent :-** C.S.C.

**Hon'ble Manish Mathur, J.**

1. Learned counsel for petitioner is granted liberty to implead the U.P. Secondary Education Services Section Board, Allenganj, Prayagraj through its Secretary as opposite party No. 7 during course of day. Mr. R.K. Singh Suryvanshi learned counsel has accepted notices on behalf of newly impleaded opposite party.

2. Heard learned counsel for petitioner, learned State Counsel appearing for opposite parties 1 to 5. In view of order being passed, notices to opposite party no.6 stand dispensed with.

3. Petition has been filed challenging order dated 14.09.2023 whereby petitioner's candidature for regularization in service on the post of Assistant Teacher under Section 33-G of the Uttar Pradesh Secondary Education [Services Selection Boards] Act, 1982 (hereinafter referred to as the Act of 1982) has been rejected. A further prayer for permission to work and discharge duties and for payment of regular salary has also been sought.

4. Learned counsel for petitioner has placed reliance on judgment and order dated 31.05.2024 passed in a bunch of petitions with leading petition being WRIT - A No. - 8437 of 2023, Awadhesh Kumar Pandey v. State of U.P. and others to submit that a similar issue has already been adjudicated upon through aforesaid judgment whereunder the orders of rejection were quashed and the dispute was relegated back to Regional Level Committee to pass orders afresh after calling the records from the Committee of Management as well as the District Inspectors of Schools concerned.

5. The operative portion of the judgment is as follows:-

*"30. In view of the above said submissions and discussions, it is apparent that the orders impugned in all the writ petitions have been passed in a cyclostyle manner, without associating the petitioners in the proceeding and without ensuring the records from the Committee of Management/District Inspector of Schools concern and further without following with any procedure, as it is provided under Section 33-C(2)(b) of the Act, 1982. Thus, the impugned orders on its face, are unlawful and against the settled proposition of law.*

*31. Consequently, the orders of rejection, assailed in the present bunch of writ petitions are hereby quashed.*

32. *The writ petitions are allowed, accordingly.*

33. *All the matters are relegated back to the Regional Level Committees concerned to pass order afresh within a period of three months, after calling the records from the committee of management as well as the District Inspectors of Schools concern and by verifying the same. It is further directed that the petitioners shall also be provided the opportunity of hearing, if so required. The scheme provided under Section 33-G of the Act, 1982 shall strictly be adhered to, keeping in view of the requirement of procedure to be adopted by the Committee so constituted.*

34. *In addition, it is further provided that the petitioners of the present bunch of writ petitions are entitled to continue in service and shall be paid salary without any further break, till the decision so taken by the committee concerned. The petitioners as well as the Manager of the Committee of Management shall ensure their presence and would co-operate with the Regional Level Committee, as and when required."*

6. Learned counsel appearing on behalf of State admits that the present dispute is squarely covered by aforesaid judgment. However he also stands by the objections raised by him as noted in aforesaid judgment and order.

7. Upon consideration of submissions advanced by learned counsel for the parties and perusal of judgment and order dated 31.05.2024, it transpires that this Court has recorded a finding that the claim of petitioners to be appointed either under Uttar Pradesh Secondary Education Services Commission (Removal of Difficulties) (Second) order, 1981 or the unamended Section 18 of the Act of 1982 was required to be examined thoroughly by the Regional Level Committee while ensuring production of records from the Committee of Management as well as District Inspector of Schools, which were not provided to the Regional Level Committee. It is also observed that the petitioners were not afforded any opportunity of hearing prior to passing of the order and the provisions of Section 33-C(2) (b) of the Act of 1982 have also been not considered.

8. A perusal of impugned order makes it evident that the aforesaid judgment is squarely applicable in the present facts and circumstances of the case.

9. In view thereof, the impugned order dated 14.09.2023 is hereby quashed by issuance of a writ in the nature of Certiorari directing opposite party no.4 i.e. Chairman, Regional Level Committee, Prayagraj Mandal, Prayagraj to adhere to directions issued by this Court vide judgment and order dated 31.05.2024 in the case of petitioner as well.

10. With the aforesaid directions, the petition stands allowed at the admission stage itself. Parties to bear their own cost.

**Order Date :- 31.8.2024**

prabhat