

**Court No. - 33**

**Case :-** WRIT - A No. - 2679 of 2021

**Petitioner :-** Vikeka Nand Dubey

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

**Counsel for Petitioner :-** Devi Prasad Mishra

**Counsel for Respondent :-** C.S.C.,Anuj Agrawal,Deo Dayal,Durga Singh

**Hon'ble Ashwani Kumar Mishra,J.**

Following orders were passed in the matter on 22.2.2021:-

"Petitioner is substantively appointed as headmaster in a primary school. It appears that vide order dated 13.7.2017, District Basic Education Officer, Chandauli has sent the petitioner on deputation on the post of Zila Vyayam Shikshak. Petitioner has joined as such and is working since then. On the deputation post, petitioner is performing various works as have been specified in paragraph no. 5 of the writ petition. An order has now been passed by the Director General School Education on 19.1.2021 which is assailed in this petition. It records that for various works relating to supervision of games and scouts activity, teachers have been sent on deputation but they are not performing teaching work and are only performing other works. A direction, therefore, has been issued to all District Basic Education Officers requiring the games and scouts teachers/ physical education teachers attached at the block level to be relieved so that these teachers could perform their primary function as teacher in the school and only in addition to it they may perform other functions. A consequential order has been passed by the District Basic Education Officer, Chandauli relieving the petitioner from the additional work assigned to him on account of his deputation. Aggrieved by these orders, petitioner is before this Court.

Learned counsel for the petitioner states that more than 3500 teachers have been assigned other than non teaching activity in the State of U.P. and attention of the Court has been invited to Annexure-12 to the writ petition in support thereof. It is further contended that there is no justification for the respondents to pass orders impugned inasmuch as games teachers, in sufficient number, are otherwise available and regular functioning of the school is otherwise restricted on account of Covid-19 pandemic. Submission is that the orders impugned are wholly arbitrary.

Sri Anuj Agrawal, Sri Deo Dayal and Sri Durga Singh, learned counsel for the respondents defend the orders passed by the authorities.

A perusal of the order impugned would clearly reveal that the Director General, School Education has directed the District Basic Education Officer to direct all the teachers who have been assigned additional duties to ensure that they perform their preliminary responsibility of teaching work in the institution. It is only thereafter that they can perform other works. This order of the Director General, School Education is clearly in aid of the cause of education inasmuch as teachers have the preliminary responsibility to perform teaching work and all other functions are only secondary. The Director General, School Education, therefore, must examine and ensure that the order dated 19.1.2021 is implemented in letter and spirit inasmuch as the teachers who are either headmaster or teachers must be repatriated to their parent cadre and should be authorised to perform teaching work first. There is no reason as to why the teachers are being given other works in preference to their substantive appointment as teachers. It is only in extra time that additional responsibility could be given to them. The Director General, therefore, shall ensure that the petitioner alongwith others who are substantively appointed as teachers are repatriated to their parent cadre and are directed to perform work of teaching first. In the event petitioner has not joined his parent cadre, it shall be open for the authorities to take necessary action in the matter.

The Director General, School Education shall examine this aspect of the matter and file

his affidavit, clearly specifying as to how he proposes to ensure that teaching work is given primary and additional work is not assigned to them at the cost of teaching work.

Put up in the additional cause list on 15.3.2021."

The Director General, School Education has filed his personal affidavit clearly stating that all teachers, who are assigned duties of games and scouts activities, have been repatriated to perform their parent teaching work. It is further stated that petitioner has also been repatriated and has joined at his original place of posting as Headmaster of the Primary School.

Learned counsel for the petitioner has pressed, with vehemence, the averments made in para 16 of the writ petition, which are extracted hereinafter:-

*"16. That, it is pertinent to mention here that there are 75 District and 880 blocks in the State of Uttar Pradesh. There are 3402 ARP (Academic Resource Persons) and KRP (Key Resource Person) who are basically appointed as assistant teachers in Junior High Schools and now they are performing the duties as ARP/KRP for supportive supervision in Mission Prerana for running e-schools. ARP/KRP who are getting Rs.2500/- as Mobility allowances. It is provided in the G.O. dated 07.08.2020 that they shall report in BRC Office. Meaning thereby they are not reporting to their schools concern for teaching the students. Further, it is provided in the aforesaid G.O. that SRG shall not report to their school but they shall report to the project District offices and they would not go to their schools unless the students are not coming to the school during Covid-19 pandemics. ...."*

It is submitted by learned counsel for the petitioner that petitioner is only games' teacher and his activity of teaching in school is not that important as of teachers who are to teach Science and Humanity subjects. It is submitted that such teachers have been given additional work and are also getting allowance of Rs.2500/- per month, whereas petitioner's allowance is only Rs.300/- per month. It is submitted that there is no justification to repatriate the petitioner and the State has not treated him at par with other teachers, who are to act as academic key resource person.

This Court is at a loss to understand as to what exactly is the grievance of petitioner. Petitioner is substantively a Headmaster in a Primary School and his primary duty is to perform teaching work and to supervise the primary institution. There is no factual issue that petitioner has been repatriated to perform teaching work. Payment of petitioner as Headmaster is also not disputed. His entire anxiety is to somehow get the additional work for which Rs.300/- per month is to be paid extra. For such purposes he is claiming parity with key resource persons.

Performing of additional duties is not the reason for which a teacher is appointed. It is only after performing of essential functions as teacher that State can ask a teacher to perform

additional work. Performance of additional work in no circumstance can be at the cost of teaching work by the concerned teacher/Headmaster. This Court, therefore, is not inclined to entertain petitioner's grievance, inasmuch as the respondents have merely asked the teachers to perform their essential teaching work and not encourage allocation of additional duties as District Coordinator etc. The Director General shall, therefore, ensure that other category of teachers are also not allowed to perform non-teaching work at the cost of teaching work, which is likely to impair the work for which they have been appointed. The Director General shall ensure that all teachers substantively appointed as such are allowed to function and perform teaching work first and only thereafter additional work may be given to them in case of need. Necessary decision in that regard would be taken by the Director General, School Education, forthwith.

Subject to the above observations, this writ petition is consigned to records.

**Order Date :-** 15.3.2021

Anil