

Court No. - 4

Case :- WRIT - A No. - 6975 of 2021

Petitioner :- Charu Gaur And 2 Others

Respondent :- State Of U P And 6 Others

Counsel for Petitioner :- Agnihotri Kumar Tripathi

Counsel for Respondent :- C.S.C.

Hon'ble Vivek Chaudhary, J.

The case is taken up through video conferencing.

Heard learned counsel for the petitioners and learned Standing Counsel.

Grievance of the petitioners is that authorities of State and Parishad are appointing them as Booth Level Officer and various works which are not required to be performed by teachers have been entrusted to them.

Learned counsel for the petitioners, a primary teacher (Shiksha Mitra) places reliance upon section 27 of the Right of Children to Free and Compulsory Education Act, 2009 as well as rules framed thereunder. Section 27 of the Act of 2009 as well as rule 21(3) of the Rules of 2011 reads as under:-

"Section 27. Prohibition of deployment of teachers for non-educational purposes.- No teacher shall be deployed for any non-educational purposes other than the decennial population census, disaster relief duties or duties relating to elections to the local authority of the State Legislatures or Parliament, as the case may be.

Rule 21(3). For the purpose of maintaining the pupil-teacher ratio, no teacher posted in a school shall be made to serve in any other school or office or deployed for any non-educational purpose, other than the decennial population census, disaster relief duties or duties relating to elections to the local authority or the State Legislatures or Parliament."

Learned counsel has also placed reliance upon an order passed by this Court in ***Sunita Sharma Advocate High Court & another Vs. State of U.P. & others (P.I.L. No.11028 of 2015)***, decided on 25.03.2015 and ***U.P. Pradeshiya Prathamik Shikshak Sangh, Band & another Vs. State of U.P. & others (Writ Petition No.34082 of 2017)***, decided on 02.08.2017. Operative portion of the order dated 2.8.2017 reads as under:-

"For the reasons mentioned above, I find that the order of the District Magistrate, Banda is unsustainable and is contrary to Section 27 of Act 2009 and the law laid down by this Court in Sunita Sharma (supra). Accordingly, the order of the District Magistrate dated 28.4.2017 is set

aside. A direction is issued to the respondents that in future the services of teachers should be deployed strictly in terms of Section 27 of the Act, 2009 and they should not be deployed for any other non-educational purposes, which are not mentioned in Section 27 of the Act. Thus, the writ petition is allowed."

In view of the law laid down by this Court, referred to above, the direction issued by the authorities requiring the petitioners to perform work contrary to section 27 of the Right of Children to Free and Compulsory Education Act, 2009, is not liable to be sustained.

In such circumstances, petitioners are permitted to approach respondent nos.1 and 2 in respect of their grievance noticed above, alongwith computer generated/certified copy of this order, within a period of two weeks from today. The authorities concerned shall issue necessary instructions to the concerned District Magistrates and District Basic Education Officer of different districts to the effect that provisions contained under section 27 of the Act of 2009 shall be scrupulously complied with, and the Assistant Teachers shall not be assigned work in teeth of the provisions, referred to above.

With the aforesaid observations, the writ petition stands ***disposed of.***

Order Date :- 9.7.2021

Anil K. Sharma

(Vivek Chaudhary, J.)