

Court No. - 5

Case :- WRIT - A No. - 12055 of 2024

Petitioner :- Baba Singh

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Chandan Sharma, Vinit Kumar Sharma

Counsel for Respondent :- C.S.C., Siddharth Singhal

Hon'ble J.J. Munir, J.

Learned counsel for the petitioner is permitted to implead the District Magistrate, Mirzapur as a party respondent to the petition during the course of the day.

Prima facie the petitioner, who is a selected candidate for the post of Assistant Boring Technician in the Department of Minor Irrigation, has had his selection cancelled and the cancellation confirmed by the impugned order dated 16.02.2024 on ground that his elder brother and the elder brother's wife did not get along together which led the elder brother's wife's father to lodge a criminal complaint against the petitioner's elder brother and all his family members including the petitioner before the Chief Judicial Magistrate, under Section 498A, 323 I.P.C. and Section 4 Dowry Prohibition Act.

Learned counsel for the petitioner points out that he has challenged the proceedings of the criminal complaint before this Court by means of Application Under Section 482 No. 17829 of 2024 wherein this Court has issued notice and granted stay of further proceedings in the complaint case pending before the Magistrate.

Prima facie, even if the proceedings had not been stayed, the entire law which empowers the employer to keep a man of criminal antecedent out of his establishment never intends to exclude candidates who may have become victims of prosecutions involving family matters by relatives. A complaint under Section 498A is by now reputed to be lodged against the entire family in order to pressurize them so that the husband patches up with the wife on disadvantageous terms or whatever be the reason. If offences of this kind are to be taken into consideration to judge a prospective candidate's criminal antecedent much disservice shall be done to the cause of public employment. Many a good talent would be lost to such frivolous complaints or first information reports lodged at the instance of the wife not just against her husband but some of his relatives like a brother or a nephew. It is

well known that in complaints of this kind even neighbors are indicted. If this kind of the complaints were accepted to exclude from public employment the neighbor who is named in an FIR lodged by a third person's wife against her husband would also be dis-entitled to public employment. That is never the intention of the law when the principles to exclude persons with criminal antecedents were evolved as important criteria to exclude undesirable elements from public service.

Issue notice.

The District Magistrate, Mirzapur will show cause why despite the aforesaid background which this Court has noticed, he has not issued a character certificate in the petitioner's favour.

A character certificate too is not to be mechanically and blindly refused. The District Magistrate, who is also a citizen and a very junior officer working in the district, would certainly be alive to the social maladies leading to malicious complaints about cruelty and dowry demand implicating the entire family. He ought to have sensitively dealt with the matter and appropriately considered the petitioner's claim for the issue of a character certificate.

The Chief Engineer, Minor Irrigation, U.P., Lucknow will on the principles above mentioned show cause by his affidavit why the impugned order be not **quashed** and appropriate directions issued ordering the petitioner to be appointed.

The affidavits by the Chief Engineer Minor Irrigation, U.P., Lucknow and the District Magistrate, Mirzapur shall be filed on or before 22.08.2024.

Lay as **fresh on 22.08.2024.**

Let this order be communicated to the District Magistrate, Mirzapur through the Civil Judge (Senior Division), Mirzapur and the Chief Engineer, Minor Irrigation, U.P., Lucknow through the Civil Judge (Senior Division), Lucknow by the Registrar (Compliance) within **24 hours.**

Order Date :- 12.8.2024

Brijesh Maurya