

**Court No. - 8**

**WWW.LIVELAW.IN**

**Case :- SERVICE SINGLE No. - 15737 of 2021**

**Petitioner :-** Munni Rani

**Respondent :-** State Of U.P. Thru. Addl.Chief Secy.Basic Education & Ors.

**Counsel for Petitioner :-** Santosh Kr. Yadav "Warsi",Amit Kumar Gupta

**Counsel for Respondent :-** C.S.C.,Ajay Kumar,Jyotinjay Verma

**Hon'ble Dinesh Kumar Singh,J.**

1. Notice on behalf of opposite party nos.1 and 4 has been accepted by Sri Saharsh, learned counsel representing the State, while notice on behalf of opposite party nos.2, 3 and 5 has been accepted by Mr. Ajay Kumar.

2. Vide order dated 30.11.2021 this case was heard in part and it was directed that case to be listed on 9.12.2021 peremptorily. The original record in respect of the petitioner's services was also directed to be produced before this Court on the next date of listing of this petition i.e. 9.12.2021. On 9.12.2021, learned counsel for the petitioner got the matter adjourned despite the case being listed as part heard on the ground that he was on sanctioned leave upto 13.12.2021. Considering the aforesaid fact, the matter was directed to listed on 15.12.2021. On 15.12.2021, learned counsel for the petitioner sought adjournment on the ground of his ill health and, therefore, the matter was directed to be listed today peremptorily. Despite the matter being listed as part heard and peremptorily, learned counsel for the petitioner has not bothered to put in appearance on behalf of the petitioner to press this petition.

3. The present writ petition has been filed seeking quashing of the order dated 2.7.2021 passed by the District Basic Education Officer, whereby the petitioner's appointment on the post of Assistant Teacher/Head Master has been cancelled and her services have been terminated.

4. The petitioner was given appointment on 30.11.1999 by the District Basic Education Officer, Hardoi with condition that in future if any information given by the petitioner or any document submitted by her would be found to be incorrect or forged, her services would be liable to be terminated forthwith. The petitioner submitted a caste certificate of her belonging to Scheduled Caste category. One Sri Rajeev Khare on 27.10.2020 made a complaint to the District Magistrate, Hardoi stating therein that petitioner is a Mohammadan and in her service book, her religion was mentioned as 'Islam'. However, at the time of selection and appointment, she submitted the caste certificate of her belonging to Scheduled Caste category and obtained the appointment by playing fraud by submitting the forged and fabricated caste certificate.

5. After the petitioner was appointed on 30.1.1999 on the post of Assistant Teacher, the petitioner was promoted on 3.7.2004 to the post of Head Master on the post reserved for Scheduled Caste category candidate. The petitioner's caste certificate was got examined. The inquiry regarding the petitioner's appointment on the post of Assistant Teacher on the basis of the forged and fabricated caste certificate, was given to the Block Education Officer, who in his report dated 8.1.2021 stated that petitioner got appointment on the post of Assistant Teacher on the basis of the caste certificate of her belonging to Scheduled Caste category. She was also promoted in that category to the post of Head Master. Despite notice having been issued to the petitioner, the petitioner did not offer any explanation to the allegations.

6. It is averred in the writ petition that petitioner did to submit any caste certificate of her belonging to Scheduled Caste category and neither she mentioned in her application that she was from the Scheduled Caste category.

7. Considering the averments made in the writ petition, original record regarding appointment of the petitioner has been summoned. This Court has perused the original record. From the original record, it is evident that petitioner had submitted the caste certificate allegedly issued by the office of the Tehsildar, Sadar, Lucknow on 5.11.1995, in which it was said that petitioner belongs to Scheduled Caste category. Photocopy of the said caste certificate was attested by one V.K. Khanna, Banks Medical Officer, State Bank of India, Chowk Branch, Lucknow. All other educational documents were also attested by the said person only.

8. From the facts as stated above, it is evident that in her application she has mentioned her caste to be 'Ansari', but she had submitted the caste certificate of her belonging to Scheduled Caste category. Thus, from the perusal of the record and the stand of the opposite parties, it is evident that petitioner secured the appointment on the post of Assistant Teacher by playing fraud and submitted a forged and fabricated caste certificate of her belonging to Scheduled Caste category. Fraud vitiates the very appointment of the petitioner on the post of Assistant Teacher and renders the same as void *ab initio* (see *R. Vishwanath Pillai Vs. State of Kerala and others*, (2004) 2 SCC 105, *A.V. Papayya Sastry Vs. Government of A.P.* (2007) 4 SCC 221, *Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others*, (2017) 8 SCC 670).

9. In view of the aforesaid, this Court does not find any error in the impugned order passed by the District Basic Education Officer, Hardoi, therefore, the writ petition being devoid of merit and substance, is hereby **dismissed**.

**Order Date :- 16.12.2021**

Rao/-