

Court No. - 29

Case :- WRIT - A No. - 13024 of 2022

Petitioner :- Dr. Suvijna Awasthi

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

Counsel for Petitioner :- Siddharth Khare, Sr. Advocate

Counsel for Respondent :- C.S.C., Rohit Pandey

Hon'ble Manoj Misra, J.

Hon'ble Mohd. Azhar Husain Idrisi, J.

We have heard Sri Ashok Khare, learned Senior Counsel, assisted by Sri Siddharth Khare, for the petitioner; learned Standing Counsel for the respondent no.1; Sri Ankit Prakash, holding brief of Ms. Rashi Mishra, for the respondent no.2; and Sri Rohit Pandey for the respondents 3 to 5.

The petitioner has questioned an order dated 18.04.2022 issued by the Chancellor, Chhatrapati Shahu Ji Maharaj University, Kanpur whereby it is mandated that bio-metrics of teaching and non teaching staff in University shall be utilized for recording their attendance and payment of salary shall be on the basis of attendance so recorded.

It has been argued that taking bio-metrics to the extent of facial recognition would impinge upon the right of privacy guaranteed under Article 21 of the Constitution of India and it would also expose the incumbent to leakage of his personal data. It has been submitted that though the right to privacy is not an absolute right but the law which encroaches upon privacy will have to withstand the touchstone of permissible restrictions on fundamental rights. Firstly, there must be a law impinging upon the right of privacy; secondly, the law must serve legitimate State aim; and thirdly, the law must be proportional which ensures a rational nexus between the objects and the means adopted to achieve them. In this regard, the learned counsel for the petitioner has placed reliance on paragraph 325 of the decision of the Apex Court in ***K.S. Puttaswamy Vs. Union of India: (2017) 10 SCC 1***. It has been urged that decision to impose use of bio-metrics for recording attendance has no backing of a law and otherwise also, the measures adopted are not proportional. Further, the University has been given liberty to engage a private firm to enable recording of attendance by use of such bio-metrics thereby endangering the security of the bio-metrics profile.

The matter requires consideration.

Sri Rohit Pandey, who appears for the respondents 3 to 5, has

submitted that this procedure has been implemented and is currently in vogue. Except the petitioner, other teachers and staff have raised no objection to record attendance by use of the procedure adopted therefore, it is not a case where an ex-parte interim order be granted.

Learned Standing Counsel, who has accepted notice on behalf of the respondent no.1; Ms. Rashi Mishra, who has accepted notice on behalf of the respondent no.2; and Sri Rohit Pandey, who has accepted notice on behalf of the respondents 3 to 5, pray for and are allowed three weeks time to file counter affidavit. Two weeks, thereafter, shall be for the petitioner to file rejoinder affidavit.

List this petition on 15th November, 2022.

Order Date :- 7.9.2022

AKShukla/-