

Reserved on: 16.11.2023

Delivered on: 24.11.2023

Court No. - 35**Case :-** WRIT - A No. - 13567 of 2023**Petitioner :-** Mukesh Kumar Singh(M.K.Singh)**Respondent :-** State Of U.P. And 7 Others**Counsel for Petitioner :-** Pratik Chandra,Sr. Advocate**Counsel for Respondent :-** C.S.C,Sayujya Singh**Hon'ble Vikas Budhwar,J.**

1. Heard Sri G.K. Singh, learned Senior Counsel assisted by Sri Prateek Chandra, learned counsel for the writ petitioner and Sri Ajit Kumar Singh, learned Additional Advocate General assisted by Dr. Dinesh Kumar Tiwari who appears for respondents No. 1 to 4.

2. Learned counsel for the rival parties have made a statement at Bar that they do not propose to file any affidavits and the writ petition be decided on the basis of the documents available on record, thus, with their consent the writ petition is being decided at the fresh stage.

3. The case of the writ petitioner is that he was initially appointed as Principal Grade II by the first respondent, Secretary (Department of Vocational Education and Skill Development), Lucknow on 12.01.2011. It is also the case of the writ petitioner that he was transferred to different places/institutions and he claims to have been promoted on the post of Principal (Grade I) in pay matrix 67,700-2,08,700 on 01.09.2022. On 06.09.2022 the writ petitioner was issued a letter posting him as Principal, Government Industrial Training Institute, Balkeshwar, Agra. As per the writ petitioner, he joined Government Industrial Training Institute, Balkeshwar, District Agra.

4. Pleadings reveal that Government of India, Ministry of Skill Development & Entrepreneurship Directorate General of Training issued a notification dated 20.04.2023 addressed to all Principals/Chief Secretaries of the States/UTs (dealing with Craftsmen

Training Scheme) and all Regional Directors of RDSDE with the subject schedule of CTS examination for the sessions 2021-23 (2nd year of two-years course) 2022-24 (1st year of two years course) and 2022-23 (one year course and six months course) for regular trainees. In pursuance of the notification dated 20.04.2023 another notification was issued on 30.06.2023 fixing the timeline and process for recording and submission of AITT-2023 Practical Examination Marks. According to the writ petitioner, he was assigned the duty of a Nodal Creator for approval/correction of Trade Practical Marks by Nodal Creator. As per the pleadings, while the writ petitioner was working as Nodal Creator, Principal, Government Industrial Training Institute, Balkeshwar, District Agra, he placed under suspension on 02.08.2023 on the basis of the report dated 11.07.2023 of the Joint Director of Education (Training/Employment) Lucknow, Uttar Pradesh, followed by a report of City Magistrate, Agra addressed to District Magistrate dated 18.07.2023 and a communication dated 24.07.2023 of the District Magistrate, Agra to the Special Secretary (Department of Vocational Education and Skill Development) Lucknow, Uttar Pradesh, second respondent.

5. Questioning the suspension order dated 02.08.2023 as well as the order dated 02.08.2023 of the second respondent whereby Sri Yogendra Singh, Joint Director, Agra Mandal, Agra was assigned additional charge to work as a Principal of Government IIT Balkeshwar, Agra, the writ petitioner has filed the present writ petition.

6. This Court entertained the writ petition on 18.09.2023 wherein the following orders were passed.-

"Sri G.K. Singh, learned Senior Counsel assisted by Sri Pratik Chandra, learned counsel for the writ petitioner submits that the order dated 02.08.2023 passed by the second respondent placing the writ petitioner under suspension is patently illegal and contrary to law, as according to

him, even remotely the said allegations are not attributed to the writ petitioner. He submits that the writ petitioner has been made a Nodal Officer in District Agra and so far as the examinations to be conducted in different sectors in Agra is concerned, the writ petitioner has no role to play. He further submits that the suspension order refers to three enquiry reports, namely, 11.07.2023, 18.07.2023 and 24.07.2023. According to him, the report dated 11.07.2023 casts allegations upon Sri Gaurav Singh and Sri Ravindra Singh, however, without there being any linkage with the writ petitioner, he has been roped in, so far as the report dated 18.07.2023, though allegations have been leveled that the aforesaid two persons on the insistence of the writ petitioner, they used to collect Rs.500/- from the regular students to upload the marks, but in the concluding portion of the report, it has been recited that there is no evidence in that regard as the same is on suspicion itself.

Learned counsel for the writ petitioner submits that the impugned suspension order is on totally non-existent facts.

Sri Ajeet Kumar Singh, learned Additional Advocate General assisted by Dr. D.K. Tiwari, Addl. Chief Standing Counsel on the other hand submits that the suspension order records that there are serious allegations against the writ petitioner and the truthfulness of the same would only come into the surface once the enquiry is done. He further submits that the writ petitioner has also preferred a Writ-A No.20451 of 2023.

Put up this case as a fresh case on 26.09.2023.

In the meantime, the learned Addl. Chief Standing Counsel shall bring on record the following documents: - (a) copy of the enquiry report dated 24.07.2023; (b) the Circular / Guidelines entrusting tasks or duties upon the writ petitioner as a Nodal Officer; (c) any other documents in that regard.

Vakalatnama filed today by Sri Sayujya Singh on behalf of Respondent no.5 is taken on record. Office to ensure that when the case is listed next, name of Sri Sayujya Singh is printed from the respondent side."

7. Thereafter, on 05.10.2023 this Court proceeded to pass another order which is quoted hereunder.-

"Today, during the course of the argument, Sri Devendra Kumar Tiwari,

learned Standing Counsel has produced the copy of the charge-sheet and according to him, the same has been served upon the writ petitioner and that contain allegations that the writ petitioner even feeded the marks of those incumbents, who even in fact were absent.

Put up this case on 10.10.2023, as fresh."

8. Sri Ajit Kumar Singh, learned Additional Advocate General assisted by Dr. D.K. Tiwari had produced a set of documents dated 18.09.2023 under the signatures of Chief Development Officer, Agra addressed to the third respondent, Director, Directorate of Training and Employment, Lucknow, U.P. so a copy of the same was served upon the learned counsels for the writ petitioner and the learned counsels for the writ petitioner after going through the same has made a statement that they are in a position to argue the matter. Accordingly, the writ petition has been taken up at the fresh stage.

9. Sri G.K. Singh, learned Senior Counsel assisted by Sri Prateek Chandra learned counsel for the writ petitioner have submitted that the order dated 02.08.2023 placing the writ petitioner under suspension and handing over the charge to Sri Yogendra Singh, Joint Director, Agra Mandal, Agra cannot be sustained as there was no material available with the Disciplinary Authority to place the writ petitioner under suspension.

10. Elaborating the said submission, it has been argued on behalf of the writ petitioner that the suspension of the writ petitioner is based upon three reports dated 11.07.2023, 18.07.2023 and 24.07.2023. According to him, so far as the report dated 11.07.2023 of the Joint Director, Employment/Training, Agra Mandal, Agra is concerned the same nowhere links the writ petitioner with respect to any financial misappropriation or irregularity as the duty entrusted to the writ petitioner as the Principal, Government Industrial Training Institute, Agra as per the notification of the Government of India, Ministry of Skill Development & Entrepreneurship Directorate General of

Training was a Nodal Creator whereby the work of uploading of the Trade Practical Marks was of examiner on NCBT MIS portal and the writ petitioner being a Nodal Creator was only entrusted with the work of approval/correction of Trade Practical Marks in that regard. He, thus, submits that there are several examination centres in the District Agra and the writ petitioner being a Nodal Officer had no role to play, thus, the allegations contained that the two instructors Sri Gaurav Kumar Singh and Sri Ravindra Rathi had taken Rs. 500/- as an illegal gratification to load the marks is nowhere related to the writ petitioner as the only work which was entrusted to the writ petitioner was approval/correction of Trade Practical Marks. He submits that only on the basis of certain complaints and flashing of some news in media would not be a ground to place the writ petitioner under suspension. He while inviting the attention of the Court towards the report dated 18.07.2023 of the City Magistrate, Agra addressed to District Magistrate, Agra has sought to submit that though it is being shown that Sri Gaurav Kumar Singh and Sri Ravindra Rathi who were the instructors under the writ petitioner in the capacity of the Principal of the Government Industrial Training Institute, Balkeshwar, Agra had taken illegal gratification of Rs. 500/- but in the said report barring the presence of the said two instructors, it has been recited in the said report that on the video the activities of the two instructors were found to be suspicious but no evidence was there that there had been any monetary transaction taken place. Likewise according to the learned Senior Counsel for the writ petitioner, the report dated 24.07.2023 of the District Magistrate, Agra also does not in any manner link the writ petitioner with any illegality so alleged to have been committed. He, thus, submits that only on the basis of suspicion the writ petitioner has been placed under suspension as there is no material on record so as to substantiate the involvement of the writ petitioner. Accordingly, that the orders impugned be set aside and the writ petitioner be restored to

its original position which was prior to the passing of the said order.

11. Countering the said submission, Sri Ajit Kumar Singh, learned Additional Advocate General has argued that the charges against the writ petitioner are grave and serious as from the perusal of the aforesaid three reports, it is apparent that the writ petitioner while being the Principal of Balkeshwar Institute and the Nodal Creator had committed not only procedural but also financial irregularity as he through the two instructors had taken illegal gratification of Rs. 500/- from each candidate which became the basis of passing of the suspension order. He further submits that there are evidences also available with the disciplinary authority that the practical marks were not uploaded by the examiners but the marks were uploaded from the Nodal Creator ID of Nodal Government ITI, Agra. According to him, the work entrusted to the writ petitioner as per the Government notification was approval/correction of Trade Practical Marks by Nodal Creator, however, he in order to give undue benefits to undeserving candidate had usurped the function which was assigned to the examiners and he himself from his own I.D. got uploaded the marks for monetary gains. While drawing attention towards the set of documents dated 18.09.2023 he has invited the attention of the Court towards the charge sheet dated 18.09.2023 containing as many as six charges which also includes the charges of financial irregularities with respect to uploading of the marks of the candidates by the Nodal Creator. He further submits that there was sufficient material available on record so as to take a conscious decision at the end of the Disciplinary Authority for placing the writ petitioner under suspension. According to him, a detailed regular inquiry is not required before placing the delinquent under suspension. But, there has to be a consideration at the level of the Disciplinary Authority he further submits that it is not a case wherein there was no material available as there was ample material so as to place the writ petitioner

under suspension and in the present case a charge sheet has been issued to the writ petitioner. He, thus, prays that the order of suspension may not be interfered.

12. I have heard the learned counsel for the parties and perused the record carefully.

13. Undisputedly, the writ petitioner has been placed under suspension on 02.08.2023. The suspension order is based upon preliminary inquiry report dated 11.07.2023, 18.07.2023 and 24.07.2023. From the perusal of the order dated 02.08.2023 placing the writ petitioner under suspension and the preliminary fact finding inquiry reports dated 11.07.2023, 18.07.2023 and 24.07.2023 prima facie, the Court finds that there are certain allegations levelled upon the writ petitioner.

14. Notably, the order which is being impugned is an order of suspension, thus, this Court, at this stage, in the present proceedings is not required to go into the merits of the charges, however, what is relevant is as to whether there was sufficient material available with the Disciplinary Authority so as to take a decision for placing the delinquent under suspension or not. This Court finds that the decision of the Disciplinary Authority to place the writ petitioner under suspension does not appear to be not based upon any material. Nevertheless the jurisdiction and the authority of the Disciplinary Authority placing the writ petitioner under suspension is not being questioned. Thus, if the disciplinary authority finds that there happens to be certain reasons attributable to placing the delinquent under suspension backed by materials before it then this Court would not interfere as suspension is not a punishment. A charge sheet has already been issued to the writ petitioner on 18.09.2023. So far as the argument raised by the writ petitioner that in the preliminary inquiry report dated 18.07.2023 nothing was found regarding any monetary transaction, thus, the writ petitioner could not have been placed under suspension is concerned this Court, at this stage, is not delving into

the said issue as obviously it is a matter of common knowledge that in the cases of illegal transaction by whichever mode, in majority of cases there is no direct evidence available. Furthermore, these are the aspects which needs to be thrashed out while holding regular departmental inquiry. Since a charge sheet has already been issued on 18.09.2023 to the writ petitioner, thus, in the fitness of the matter looking into the facts and circumstances of the case, this Court is of the opinion that the suspension of the writ petitioner needs no interference.

15. Accordingly, the orders dated 02.08.2023 suspending the writ petitioner and handing over the charges which was held by the writ petitioner prior to the passing of the said order to other person needs no interference. However, the writ petitioner cannot be placed under suspension for an indefinite period, thus, it is directed that the disciplinary proceedings initiated against the writ petitioner pursuant to the charge sheet dated 18.09.2023 be given a logical end preferably within a period of two months from the date of production of certified copy of the order subject to the cooperation of the writ petitioner. In case, the writ petitioner is not being paid the subsistence allowance then the arrears and the current subsistence allowance be paid to it subject to fulfilments as per the rules.

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

Order Date :- 24.11.2023
Rajesh