

Court No. - 35

Case :- WRIT - A No. - 22015 of 2018

Petitioner :- Hanuman Yadav

Respondent :- State Of U P And 4 Others

Counsel for Petitioner :- Alok Mishra, Ashok Kumar
Nigam, Satya Niwas Prasad

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

1. Instructions filed today is taken on record and marked as Appexdix A.
2. Heard Shri Ashok Kumar Nigam, learned counsel for the writ petitioner as well as Shri Shailendra Singh, learned Standing Counsel for the respondent Nos. 1 to 5.
3. The case of the writ petitioner is that he had applied for recruitment on the post of constables pursuant to a drive initiative in the year 2015 in the light of the provisions contained under Uttar Pradesh Police Constables and Head Constables Service Rules, 2008 the writ petitioner claims that he had cleared the preliminary written examination, physical efficiency test, main written examination, scrutiny of documents and medical examination, however he was also issued a character certificate certifying him to be suitable, however when the time came to reap the benefits then a first information report No. 0217 was lodged on 04.07.2018 in the police station Rasra, Ballia purported to be under Sections 419, 420, 272, 273 IPC read with Section 60, 63 and 72 of the U.P. Excise Act, 1910. It is the case of the writ petitioner that at the time of the selection, the writ petitioner was not having clog. He further submits that the writ petitioner came to be

enlarged on bail on 31.07.2018 by the Court or the Sessions Judge, Ballia. It is also the case of the writ petitioner that the father of the writ petitioner, Shri Dev Nath Yadav has also lodged first information report dated 02.08.2018 in the same police station being FIR No. 0241 of under Sections 147, 148, 307, 506 IPC against the informants who had lodged FIR against the writ petitioner with respect to assault being inflicted upon the writ petitioner and the others. According to the writ petitioner, in the wake of Government order dated 28.04.1958 providing the modalities for verification of the character at first appointment, that a conviction need not of itself involve the refusal of certificate of good character, the circumstances of the conviction should be taken into account if they involved moral turpitude and association of the crime of violence etc. Submission is that even otherwise his claim is to be considered in the light of the judgment in the case of **Avtar Singh Vs. Union of India and Others, Special Leave Petition (C) No. 20525 of 2011** decided on 21.07.2016.

4. Shri Shailendra Singh, learned Standing Counsel submits that pursuant to the order dated 22.10.2018 of this Court, he has obtained instructions dated 25.10.2018 under the signatures of Senior Superintendent of Police, Allahabad according to which since the writ petitioner is facing a criminal charge and the trial is going on thus he cannot be accorded the benefits. He submits that the issues with the writ petitioner seeks to raise needs determination at the first instance by the Additional Director General of Police, Allahabad Zone Allahabad/Prayagraj.

5. Learned counsel for the writ petitioner submits that the writ petitioner shall represent his cause before the said authority.

6. Considering the submissions of the rival parties as well as stand

taken by them, the writ petition is being disposed off without seeking any response from the respondents granting liberty to the writ petitioner to prefer a comprehensive representation along with the self-attested copy of the writ petition before the second respondent, who shall on the receipt of the representation/claims set up by the writ petitioner shall deal with the same strictly in accordance with law in view of the Government orders or the statutory guidelines issued from time to time including the Government order dated 28.04.1958 as well as the judgment in the case of **Avtar Singh (supra)** and the law as existent on land, proceed to decide the claim of the petitioner strictly in accordance with law within a period of two months from the date of presentation of the certified copy of the order.

7. With the aforesaid observation, the writ petition is **disposed off**.

Order Date :- 11.12.2023

A. Prajapati