

Court No. - 21

Case :- WRIT - C No. - 32656 of 2023

Petitioner :- Basdev Yadav

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

Counsel for Petitioner :- Kailash Singh Kushwaha

Counsel for Respondent :- C.S.C.

Hon'ble Manoj Kumar Gupta,J.

Hon'ble Donadi Ramesh,J.

1. The instant petition has been filed praying for a mandamus commanding the respondents to conduct fresh enquiry by appointing another Enquiry Officer in accordance with the notification dated 29.8.1977 and not to take any coercive action against the petitioner until and unless a fresh enquiry is conducted.

2. It appears that a vigilance enquiry was ordered against the petitioner in relation to amassing of wealth disproportionate to his known sources of income, while he was posted as Director of Education (Secondary). As per the petitioner, the said enquiry was ordered on basis of some false complaint made by proprietor of a Bar namely Mahendra Pratap. A notice dated 27.9.2017 was served on the petitioner by the Superintendent of Police, U.P. Vigilance Establishment, Allahabad requiring him to disclose his assets in Form 1 to 6 to facilitate holding of enquiry. He was also permitted to present himself before the Enquiry Officer for recording of his statement. In para 11 of the writ petition, it is asserted that the vigilance enquiry was concluded behind the back of the petitioner. He was not given proper opportunity to submit his statement or represent his case. A First Information Report was lodged against the petitioner on 6.04.2021 under Section 13 (1) (b) and 13 (2) of the Prevention of Corruption Act and one Jitendra Nath Singh was appointed as investigating officer. The petitioner seems to have made request to the State Government for change of the investigating officer. It is asserted in para 18 of the writ petition that the State Government appointed one Nanhe Ram Saroj (respondent no.5) as investigating officer. The petitioner submitted his written submission before him on 20.04.2023. In para 20 of the writ petition, it is asserted that the newly appointed investigating officer has submitted the report prepared by the first investigating officer in June, 2023 without taking note of the letter of the petitioner dated 29.05.2023 in which he stated that he had already submitted his statement earlier and also filled Forms 1 to 6. The

petitioner again submitted his representation before Principal Secretary on 12.06.2023 and requested for free and fair enquiry. The petitioner alleges that the complaint was not supported by any affidavit of the complainant and enquiry was not held as per the procedure prescribed under various Government Orders. It is also submitted that initially only secret enquiry should have been held and if any adverse material is found, open enquiry could have been held. It is also submitted that the enquiry report has been directly placed before the State Government, without placing it before the Vigilance Committee.

3. As per the case set up in the writ petition, the enquiry has already been completed. Copy of the enquiry report has not been filed alongwith the writ petition, as learned counsel for the petitioner submits that the same has not been made available to him. It is not disputed that the First Information Report was lodged against the petitioner under Prevention of Corruption Act. The First Information Report is not under challenge before this Court. The Court therefore finds no good ground to interfere in the matter at this stage. It is open to the petitioner to challenge any action taken by the respondents in pursuance of the vigilance enquiry.

4. The petition is disposed of with liberty to the petitioner to avail appropriate remedy in challenging the F.I.R., if so advised or any other action, as and when taken on basis of vigilance enquiry.

(Donadi Ramesh, J.) (Manoj Kumar Gupta, J.)

Order Date :- 1.11.2023
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