

Court No. - 34

Case :- WRIT - A No. - 19057 of 2023

Petitioner :- Shiv Nath

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Yogesh Singh

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar,J.

Heard learned counsel for the petitioner as well as learned Standing Counsel.

Argument advanced by learned counsel for the petitioner is that the petitioner had initially challenged the suspension order dated 05.08.2022, but this Court refused to interfere with the suspension order on the ground that it was in contemplation of an enquiry and petitioner was directed to submit reply in the matter and the departmental proceedings was directed to be concluded within four months. This order was passed by this Court on 01.11.2022. Petitioner submitted reply to the charge sheet dated 21.11.2022 when the enquiry was further prolonged and petitioner was continued under suspension, he filed a contempt petition before this Court being Contempt Application No. 4101 of 2023 in which a further direction was issued on 23.05.2023 to the respondents to comply with the order of the Court within a further period of three months and petitioner was asked to submit self addressed stamped envelop within two weeks so that he may be communicated with the order/ decision taken by the authority, which the petitioner did on 30.05.2023, receipt whereof has been brought on record along with rejoinder affidavit.

Petitioner has relied upon the judgment of coordinate bench of this Court in the case of ***Surya Bali Ram v. State of U.P. & Ors***, reported in ***1996 (3) AWC 1514 All***, wherein, the Court has held that subsequent writ petition is maintainable questioning the suspension order, if the inquiry is unnecessarily prolonged and not completed despite directions issued by this Court in the first round of litigation.

Learned counsel for the petitioner has also relied upon the judgment of Supreme Court in the case of ***Ajay Kumar Choudhary v. Union of India & Anr***, (2015) 7 SCC 291 which has been followed by concurrent bench of this Court in ***Service Single No. 16606 of 2020, Chaman Singh v. State of U.P. & Ors.***

In the circumstances, therefore, I consider it more appropriate to put suspension in abeyance during enquiry. The respondents are directed to conclude the enquiry as expeditiously as possible in compliance of the order passed by the Contempt Court dated 23.05.2023. Accordingly, the order of suspension dated 05.08.2022 placing the petitioner under suspension by District Panchayat Raj Officer, Azamgarh is put in abeyance till the disposal of disciplinary proceedings.

Petitioner is permitted now to discharge his duties and shall be paid salary. The payment for the period petitioner has been under suspension shall be abide by the result of disciplinary proceedings.

Learned Additional Chief Standing Counsel Sri P.K. Srivastava submits that as per the personal affidavit, the petitioner has not submitted a proper reply. I find that reply submitted has been brought on record. Reply since is part of the writ petition, the respondent disciplinary authority is directed to treat the same as the reply of the petitioner to the charge sheet and proceed in accordance with law in the matter.

With the aforesaid observations and directions, this petition stands **disposed of**.

Order Date :- 11.12.2023
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