

Court No. - 34

Case :- WRIT - A No. - 19414 of 2023

Petitioner :- Mahendra Sharma

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Atipriya Gautam, Anura Singh, Madhaw Pandey, Sr. Advocate

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar, J.

1. Heard Sri V.K.Mishra, learned Advocate holding brief of Sri Atipriya Gautam, learned counsel for the petitioner and learned Standing Counsel for the State.

2. The petitioner has approached this Court for a direction to quash the departmental proceedings as was drawn against him in connection with a criminal case registered as Case Crime No.- 12 of 2023 under Sections 420 I.P.C. and Section 7 of Prevention of Corruption Act.

3. Learned counsel for the petitioner has relied upon an interim order passed in identical set of facts in Writ - A No.- 5962 of 2022 in which further proceedings pursuant to the chargesheet has been stayed. He has further relied upon Paragraph Nos. 489 and 492 of the Uttar Pradesh Police Regulations.

4. Paragraph no.489 of the Regulation permits the departmental trial of police officer under Section 7 of the Police Act in certain circumstances enumerated therein whereas Paragraph no.492 shows that no final order shall be passed in the departmental proceedings. Joint readings of the two provisions, raises a question as to whether the departmental proceedings can be stayed absolutely moreso in the light of the Government Order dated 01.07.1973.

5. Learned Standing Counsel submits that the charges are something more regarding ratification/bribe being demanded, therefore, amenable to departmental enquiry.

6. Learned counsel for the petitioner has also relied upon judgment in the case of **Captain M.Paul Anthony v. Bharat Gold Mine, 1999 (3) SCC 679.**

7. Having heard learned counsel for the parties, I consider it appropriate for the petitioner in the first instance to make application before the disciplinary authority to take decision as to whether disciplinary proceeding in the given facts and circumstances be still continued despite judgment of Supreme Court in the case of Captain M.Paul Anthony (*Supra*) and relevant provisions contained in paragraph 489 and 492 of the U.P. Police Regulation. Appropriate decision shall be taken within thirty days from the date of presentation of certified copy of this order before further proceeding pursuant to the charge-sheet issued.

8. With the aforesaid observations and direction, the writ petition stands disposed of.

Order Date :- 23.11.2023

Sanjeev