

Court No. - 7

Case :- WRIT - A No. - 18872 of 2020

Petitioner :- Vidya Prakash Srivastava

Respondent :- State Of U.P. Thru Secretary Co-Operative Lko. And Ors.

Counsel for Petitioner :- Manish Misra, Sandeep Kumar Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Abdul Moin, J.

1. Heard.
2. With the consent of learned counsels appearing for the contesting parties, the writ petition is being finally decided.
3. Instant petition has been filed challenging the suspension order dated 08.04.2020, a copy of which is Annexure No. 1 to the petition. Further prayer is to direct the respondents to forthwith re-instate him in service and pay him the full salary.
4. Learned counsels appearing for the contesting parties state that facts of the case have already been indicated in detail by this Court vide order dated 26.11.2020.
5. For the sake of convenience, the order dated 26.11.2020 is reproduced below:

"Heard Mr. Manish Misra, learned counsel for petitioner and learned State Counsel appearing on behalf of opposite parties.

Petition has been filed against the order dated 08.04.2020 whereby petitioner has been suspended from service while holding the post of Co-operative Inspector pending departmental inquiry.

Learned counsel for petitioner submits that a perusal of the impugned order will make it apparent that the same has been passed in pursuance to a preliminary inquiry report dated 19.11.2019 submitted by a Committee comprising one Sri Hari Bhan, Additional District Co-operative Officer, Ambedkar Nagar. Learned counsel has also drawn attention to the letter dated 16.08.2019 whereby the aforesaid Committee has been constituted. It is submitted that a perusal of the said order will reveal that complaint against petitioner had been

made by the aforesaid Mr. Hari Bhan and the said complainant himself has been made a Member of the Committee. Learned counsel has thereafter drawn attention to the report dated 19.11.2019 on the basis of which the impugned suspension order has been passed with the submission that the said Committee has submitted its report bearing only the signature of Mr. Hari Bhan although it was supposed to be a two Member of Committee. Learned counsel has also drawn attention to the report dated 04.10.2019 (Annexure No. 5) with the submission that just a month prior to the submission of the Inquiry report dated 19.11.2019, the matter pertaining to complaint against the petitioner had been inquired into and nothing had been found amiss. As such, it is submitted that the suspension of petitioner from services is actuated by mala fide on the part of Mr. Hari Bhan. As such, it is submitted that the order impugned is unsustainable. Learned State Counsel appearing on behalf of opposite parties seeks time to obtain instructions in this matter.

Upon consideration of material on record and submissions advanced by learned counsel for petitioner, prima facie, it appears that the root cause of petitioner suspension is preliminary report dated 19.11.2019 which appears to have been submitted bearing signature of only the aforesaid Mr. Hari Bhan although the Committee was to be a two Member Committee.

Prima facie, the submissions advanced by learned counsel for petitioner have considerable force and a case for grant of interim relief is made out.

Opposite parties are granted four weeks' time to file a detailed counter affidavit. List in the month of January, 2021 after expiry of the aforesaid period.

Until further order of this Court, operation of the impugned order dated 08.04.2020 shall remain stayed."

6. Learned counsel for the petitioner contends that the aforesaid order passed by this Court still continues to operate but subsequent thereto, respondents have issued to the petitioner a charge-sheet dated 21.11.2020. The petitioner has made a demand to the respondents to supply him certain documents through an application but the requisite documents still have not been supplied to the petitioner till date.

7. On the other hand, Shri P. K. Singh, Additional Chief Standing Counsel appearing for the respondents states that as the departmental proceedings were initiated and the petitioner was placed under

suspension by means of a common order dated 08.04.2020 which has been stayed by this Hon'ble Court as such the respondents are unable to proceed with the departmental proceedings. He prays that the stay of suspension order may continue but the respondents be given liberty to proceed with the inquiry and that the Court may fix a time frame for the completion of the inquiry.

8. To the aforesaid proposition, Shri Manish Misra, learned counsel for petitioner has no objection but states that as he has already applied to the inquiry officer for the supply for certain documents as such the documents be made available to the petitioner within a reasonable time.

9. Keeping in view the aforesaid facts wherein the order of suspension has already been stayed by this Court and subsequent thereto a charge-sheet has been issued to the petitioner on 21.11.2020 and the fact that the petitioner has applied for supply of certain documents which have still not been made available to him till date and the disciplinary proceedings have also not proceeded further, consequently the instant petition is disposed of with the direction to the respondents to supply the documents as have been asked for by the petitioner through his application as are found relevant to the inquiry proceedings within two weeks. In case, the documents are not found relevant to be supplied to the petitioner, the said fact would be informed to the petitioner with a period of two weeks from today. Thereafter, the departmental proceedings shall continue and be finalized in accordance with law and relevant rules after giving opportunity of hearing to the petitioner which proceedings shall be finalized within a period of four months from today.

10. Suspension order shall not be given effect to till the final orders are passed by the respondents as per the directions issued by this Court, which would abide by the final order in the departmental proceeding.

11. Needless to mention that the petitioner shall cooperate in the inquiry proceedings. In case the petitioner does not cooperate, the Inquiry Officer would be at liberty to inform the petitioner in writing about his non-cooperation and the period of non-cooperation would be excluded from the aforesaid period.

12. Subject to the aforesaid, the writ petition is **disposed of**.

Order Date :- 21.11.2023

Mohit Singh