

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 2134 of 2023

Applicant :- Vijay Kumar Gupta

Opposite Party :- Sri Mangala Prasad Singh, D.M., Hardoi

Counsel for Applicant :- Alam Singh, Anamika Shukla, Ashok Kumar Shukla

Hon'ble Rajesh Singh Chauhan, J.

1. Heard Sri Alam Singh, learned counsel for the petitioner and Sri Amrendra Pratap Singh, learned Standing Counsel.

2. Sri Amrendra Pratap Singh has drawn attention of this Court towards the order of the writ court dated 22.02.2023 passed in Writ-A No.1310 of 2023, which reads as under:-

"1. Heard learned counsel for the petitioner and learned Standing Counsel for the State.

2. Petitioner has approached this Court challenging the impugned punishment order dated 04.01.2021 and orders dated 04.12.2021 and 14.12.2022 whereby his appeal and revision are also rejected.

3. Petitioner has taken a specific ground in the writ petition that the inquiry initiated against the petitioner is in violation of Rule 7(vii) of the Uttar Pradesh Government Servant (Discipline and Appeal) Rules, 1999 (hereinafter referred to as 'Rules of 1999') inasmuch as no witnesses were produced by the department to prove the records of the department and also no opportunity of cross examination was given to the petitioner. Petitioner was only required to submit his reply to the charge-sheet and produce his evidence without there being any effort to prove the evidence of the department. Therefore, the documents submitted by the department itself were not proved.

4. Learned Standing Counsel was required to complete his instructions with regard to compliance of Rule 7(vii) of Rules of 1999.

5. On instructions, learned Standing Counsel fairly admits that no oral inquiry has taken place in the case. Thus, the entire inquiry and punishment are in violation of Rule 7(vii) of Rules of 1999.

6. In view thereof, the impugned orders dated 04.01.2021, 04.12.2021 and 14.12.2022 cannot stand and are hereby set aside.

7. It shall be open for the respondents, in case they so desire, to proceed afresh, after providing list of witnesses to the petitioner on charge-sheet and following the due process of law.

8. *With the aforesaid the writ petition stands allowed.*

9. *Consequences to follow."*

3. Sri Amrendra Pratap Singh has further drawn attention of this Court towards the affidavit of compliance of the District Magistrate, Hardoi dated 31.10.2023 indicating para 7 & 8 thereof wherein it has been categorically indicated that in compliance of the order of the writ court, the petitioner has been reinstated, the departmental inquiry was proceeded keeping him under suspension. It has been further indicated that the petitioner is not cooperating in such inquiry, therefore, the departmental inquiry is still pending.

4. Despite the opportunity having been granted to the learned counsel for the petitioner to file reply/ objection to the affidavit of compliance, no reply/ objection has been filed till date.

5. Sri Amrendra Pratap Singh, learned Standing Counsel has further drawn attention of this Court towards the computer generated information issued from the High Court showing that the petitioner has filed subsequent writ petition bearing Writ-A No.9224 of 2023 whereby the petitioner has challenged the impugned order of suspension dated 22.03.2023 and also challenged the charge sheet dated 14.07.2023. The aforesaid writ petition is still pending. Photocopy of the aforesaid writ petition has been shown to the Court for perusal.

6. Having regard the aforesaid facts and circumstances, more particularly the subsequent order, which has been passed in compliance of the order of the writ court and has been assailed by the petitioner by filing another writ petition, which is pending consideration so there is no purpose to keep this contempt petition pending any longer.

7. Accordingly, the present contempt petition is **dismissed**.

8. Notice is discharged.

[Rajesh Singh Chauhan,J.]

Order Date :- 30.11.2023

RBS/-