

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 7847 of 2023

Petitioner :- Santosh Kumar Maurya

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. And Others

Counsel for Petitioner :- Sharad Pathak, Pawan Kumar Pandey

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Karunesh Singh Pawar,J.

(1) Heard the learned counsel for the petitioner and the learned A.G.A. who appears for the Opposite party nos.1 to 5.

(2) This petition has been filed by the petitioner for the following main prayer:-

"1) issue a writ, order or direction in the nature of Certiorari quashing the impugned First Information Report lodged as Case Crime No.0003 of 2023 on 01.03.2023 at Police Station Lucknow Sector (Vigilance Establishment), District Uttar Pradesh Vigilance Establishment, Lucknow, under Section 13 (1) (b) and Section 13 (2) of Prevention of Corruption Act, 1988, so lodged by the Opposite party no.5, contained as Annexure No.1 to this writ petition.

(ii) issue a writ, order or direction in the nature of Certiorari quashing the decision taken by the Opposite party no.2, if any, after summoning the original of the same from opposite party no.2, initiating and deciding to start vigilance enquiry against the petitioner and subsequently to lodge First Information Report against the petitioner."

(3) It has been submitted by the learned counsel for the petitioner that the petitioner is working as Deputy Registrar, Firms, Societies & Chits, Lucknow Region, Lucknow, in 2020 but he was dismissed from service on 01.10.2020. Thereafter, the employee and the employer relationship came to an end. The petitioner was served Notice by the Superintendent of Police / Vigilance Establishment Lucknow Sector, Lucknow on 02.07.2021

for inquiring into disproportionate assets. The entire Enquiry procedure was followed without any sanction or approval from the concerned Establishment of the petitioner which is against the Government Order/ D.O. Letter dated 12.09.1995. In the said Government Order dated 12.09.1995, it has been stated that Vigilance Establishment would inquire into only such matters which relate to Government Servants. Learned counsel for the petitioner has further stated that in the said Government Order there is further provision of taking a proposal from the Government Department where the Government Employee is functioning before initiating Vigilance Enquiry but such procedure was not followed in the case of the petitioner.

(4) The petitioner has submitted his reply against the said Notice on 26.07.2021 thereafter, several applications have been made by the petitioner to the Authorities concerned regarding the procedure as prescribed in the Government Order of 1995 which is not being followed in his case. Copies of such applications and letters have been filed as Annexures to the writ petition. The petitioner made such applications on the basis of information given by the Public Information Officer of U.P., Vigilance Department, saying that no proposal was received from the Institutional Finance Department which is the parent Department of the petitioner for initiation of the Enquiry against him.

(5) The petitioner having given in his reply, a detailed mention of how he acquired the property as alleged in the Show Cause Notice to him, his reply was not considered and the State Vigilance Committee has taken a decision on the basis of which sanction has been granted and the impugned F.I.R. has been lodged.

(6) It has been submitted that there is no necessity of sanction in the case of the petitioner as the petitioner is already a dismissed employee and there is no relationship between Employer and Employee. He is not even a Public Servant as defined under Section 13 (2) of the Prevention of Corruption Act, therefore, no F.I.R. could have been lodged under Section 13 (1) (b) and Section 13 (2) of Prevention of Corruption Act, 1988.

(7) This Court having gone through the Section 13 in its entirety finds that under explanation (1) to the same, there is specific reference of even such persons who may have retired during the period of his office, been in possession

of pecuniary resources or property disproportionate to his known sources of income which the public servant cannot satisfactorily account for.

(8) This Court has perused the F.I.R. which has been lodged after the Government took into account the Vigilance Enquiry Report dated 25.01.2021 and gave permission on 03.03.2021 for Open Investigation regarding the investigation of assets of the petitioner.

(9) Learned counsel for the petitioner says that he may be given time to give reply to the Section 41-A of the Cr.P.C. that has been issued by the Investigating Officer to the petitioner.

(10) Learned A.G.A. has produced before this Court the instructions sent by Shri Ram Ashish, Inspector of U.P. Vigilance Establishment, wherein it has been stated that the petitioner was issued Notices on 27.06.2023, 19.07.2023, 22.08.2023 and 21.09.2023 to submit his reply to the notice. The petitioner has not cooperated in the investigation. This Court, therefore, finds no good ground to grant the prayer as made by the counsel for the petitioner.

(11) This Court, therefore, finds no good ground to show interference in the matter.

(12) The writ petition stands ***dismissed***.

(13) Shri Saurabh Yadava and Ms. Hema Singh, Advocates have filed their Power on behalf of the one Poonam Maurya, who has filed an application for intervention.

(14) Since an application is taken on record, this Court after the writ petition having been dismissed there is no question of being entertained the intervention application.

Order Date :- 12.10.2023
N.PAL