

**Court No. - 20**

**Case :-** WRIT - A No. - 8578 of 2023

**Petitioner :-** Durgesh Singh

**Respondent :-** State Of U.P. Thru. Prin. Secy. Home Lko. And 3 Others

**Counsel for Petitioner :-** Sushil Kumar Misra, Vishal Nigam

**Counsel for Respondent :-** C.S.C.

**Hon'ble Manish Mathur, J.**

1. Heard learned counsel for petitioner and learned State Counsel for opposite parties.

2. Learned counsel for petitioner is granted liberty to amend the prayer clause of petition to effect challenge to order dated 29th August, 2023 (annexure No.10) whereby his selection on the post of Constable, P.A.C. has been cancelled on the ground of pendency of criminal proceedings by means of case crime No.629 of 2014 under Section 414 IPC and in which charge sheet has been filed on 28th May, 2014.

3. It has been submitted that earlier petitioner had participated in selection for post of Constable, PAC and was selected by means of order dated 6th August, 2021. It is submitted that thereafter joining was not provided to petitioner on account of pendency of aforesaid criminal proceedings pertaining to concealment of stolen property and therefore he had filed Writ A No.6632 of 2022 which was dismissed vide judgment and order dated 27th July, 2022 primarily on the ground that no relief can be granted to petitioner since he is involved in a criminal case in which trial is already pending and therefore it would not be suitable for petitioner to become a member of police force as he may pose a threat to discipline of the force.

4. It has been submitted that in the meantime petitioner was acquitted in the trial by means of judgment and order dated 27th January 2023 passed in S.T. case No.2215 of 2015 registered as case crime No.629 of 2014 under Section 414 IPC. It is submitted that criminal appeal No.27 of 2023 has also been dismissed vide judgment and order dated 9th May, 2023. It is submitted that till date no appeal has been filed against aforesaid order holding petitioner's acquittal and therefore vide recommendation dated 22nd May, 2023, the district magistrate has recommended appointment of petitioner in pursuance of his selection.

5. It is submitted that however vide order dated 29th August, 2023, petitioner 's selection has been cancelled only on the

ground of pendency of criminal proceedings without taking into account the recommendation dated 22nd May, 2023 and the fact that petitioner has already been acquitted in the trial, which has been upheld in appeal and therefore the impugned order dated 29th August, 2023 has been passed without application of mind.

6. Considering submissions advanced by learned counsel for petitioner and upon perusal of material on record, it is evident that despite petitioner's selection on the post of Constable in Provincial Arms Constabulary, his joining was not resorted to on account of pendency of aforesaid criminal proceedings. However the factum of petitioner's acquittal has clearly been indicated in the recommendation dated 22nd May, 2023 by District Magistrate Pilibhit to the concerned authority of P.A.C.

7. It is also evident that impugned order dated 29th August, 2023 has thereafter been passed cancelling petitioner's selection only on the ground of pendency of criminal proceedings. A perusal of the order indicates that aspect of petitioner's acquittal and appeal against acquittal having been rejected is an aspect which has not been considered by the authority concerned at all.

8. In such circumstances, the impugned order dated 29th August, 2023 has clearly been passed against relevant material pertaining to petitioner's acquittal.

9. In view of aforesaid, the impugned order dated 29th August, 2023 is quashed by issuance of a writ in the nature of Certiorari at the admission stage itself. A further direction is issued to the opposite party No.3 i.e. Senanayak, P.A.C., 17th Vahini, Sitapur to reconsider the entire aspect in the light of the fact that petitioner has already been acquitted of the charges levelled against him in criminal proceedings regarding case crime No.629 of 2014. Relevant orders shall be passed by the aforesaid authority within a period of six weeks from the date a certified copy of this order is produced before the concerned authority.

10. Resultantly petition succeeds and is allowed. Parties to bear their own cost.

**Order Date :- 3.11.2023**  
prabhat