



2026:ANE:91395

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 15407 of 2025

Kumari Sharmila

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Shyam Sundar Pal, Vinod Kumar
Counsel for Respondent(s)	:	Akhilesh Kumar Sharma, C.S.C.

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. Mr. V.K. Upadhyay, learned Advocate has filed vakalatnama on behalf of respondent no.5 in the Court today, which is taken on record.

Ref: Order on Civil Misc. Amendment Application No.6 of 2026

2. Learned counsel for the petitioner has filed the amendment application with the prayer to insert the prayer clause in the following manner to issue an order or direction in the nature of certiorari quashing the impugned speaking order dated 12.09.2025 passed by District Basic Education Officer, Chandauli, as prayer no. '(i)-a' in the writ petition.

3. No objection has been raised by Mr. Bansh Gopal Mishra, learned Advocate holding brief of Mr. Akhilesh Kumar Sharma, learned counsel for the respondent-BSA, Mr. Rajnish Sharma, learned counsel for respondent no.4, Mr. V.K. Upadhyay, learned counsel for respondent no.5 as well as Mr. Rishi Kumar, learned Additional Chief Standing Counsel for the State. This amendment application is **allowed**.

4. Learned counsel for the petitioner is permitted to incorporate the necessary amendment in the prayer clause within two weeks.

Ref: Order on Writ Petition

5. Heard Mr. Vinod Kumar, learned counsel for the petitioner, Mr. Bansh Gopal Mishra, learned Advocate holding brief of Mr. Akhilesh Kumar Sharma, learned counsel for the respondent nos.2 and 3, Mr. Rajnish

Sharma, learned counsel for respondent no.4, Mr. V.K. Upadhyay, learned counsel for respondent no.5 as well as Mr. Rishi Kumar, learned Additional Chief Standing Counsel for the State.

6. The present petition has been filed with the following prayer:

"i) Issue a writ order or direction in the nature of certiorari, quashing and setting aside the part and portion of the order impugned dated 17.09.2025 far as the punitive transfer of the petitioner passed by respondent no. 3 (Annexure NO.1) writ petition. to the

ii) Issue a writ order or direction in the nature of mandamus, respondents authorities directing to the permit the petitioner to join her services at the present place of posting i.e. Composit School Jhansi, Sakaldiha, Chandauli, and also pay the salary month to month as and when it becomes due, within stipulated period of time as may specified by this Hon'ble Court."

7. Consequently by means of amendment application, which is now treated as part of record of the writ petition, the order dated 12.09.2025 has also been challenged.

8. The matter was argued on several dates and on 14.10.2025, the following order was passed:

"1. Learned counsel for the petitioner submits that the petitioner has made complaint dated 28.12.2024 in respect of forged signature of a teacher who was not present in the institution by other teachers who were present in the institution. On the said complaint, action has been taken by the Block Education Officer, Shakaldiha, District Chandauli vide his letter dated 31.12.2024. Learned counsel for the petitioner further submits that the petitioner has no knowledge about any enquiry which has been conducted on that very complaint and as per the law and principles of natural justice a person who has made

complaint must be given opportunity of hearing in the enquiry proceedings.

2. Thus, it appears that no enquiry has been conducted. If it is conducted in accordance with law, the District Basic Education Officer, Chandauli, is directed to submit his report through the Block Education Officer, Shakaldiha Chandauli.

3. The Block Education Officer, Shakaldiha District Chandauli, shall appear before this Court along with the entire documents making clear position about the complaint so that the Court may decide the present writ petition whether the order has been passed against the petitioner with malafide intention or not.

4. The Block Education Officer, Shakaldiha Chandauli, shall appear before this Court alongwith entire documents in three sets of photocopy so that the report may be verified by this Court.

5. Learned counsel for the District Basic Education Officer is directed to provide the complete instruction in respect of enquiry conducted on the complaint of the petitioner alongwith the forensic report of signature that is essential for enquiry as per the complaint made by the petitioner. If no such enquiry has been conducted, the same shall be clearly mentioned in the instruction.

6. Put up this case as fresh on 17.10.2025, at 12.00 O'clock.

7. Learned Chief Standing Counsel is directed to send a copy of this order alongwith a letter indicating the entire facts so that further direction may be given to the Senior Superintendent of Police, Chandauli, to conduct enquiry and also submit his report in respect of forensic/handwriting examination as well as the visit of

Smt. Anita Chauhan of that day for the end of justice."

9. On 24.02.2026, the following order was passed:

"Civil Misc. Impleadment Application No.3 of 2025

1. Heard Sri Vinod Kumar, learned counsel for the petitioner and Sri Rishi Singh, learned Standing Counsel for the State.

2. For the reasons stated in the affidavit, the impleadment application is allowed.

3. Learned counsel for the petitioner to implead Smt. Anita Chauhan as respondent no.4 and Smt. Poonam Mishra as respondent no. 5 in the array of parties during the course of day.

Writ Petition

4. Sri Rishi Kumar, learned Standing Counsel for the State has placed before this Court the Forensic/Handwriting Examination Report in compliance of the order of this Court dated 26.11.2025. The same is taken on record. A copy of the same has been handed over to the learned counsel for the petitioner.

5. Issue notice to the newly impleaded respondent nos. 4 and 5 returnable at an early date.

6. Learned counsel for the petitioner is directed to take steps to serve the copy of the petition along with all relevant documents including copy of the Forensic/Handwriting Examination Report to the newly impleaded respondents.

7. Learned counsel for the petitioner has relied upon the directions issued by this Court on 14.10.2025 wherein the learned Chief Standing Counsel was directed to send a copy of the order along with a letter indicating the

entire facts so that further direction may be given to the Senior Superintendent of Police, Chandauli, to conduct enquiry and also submit his report in respect of forensic/handwriting examination as well as the visit of Smt. Anita Chauhan of that day for the end of justice. The order passed by this Court is quoted herein below:

"1. Learned counsel for the petitioner submits that the petitioner has made complaint dated 28.12.2024 in respect of forged signature of a teacher who was not present in the institution by other teachers who were present in the institution. On the said complaint, action has been taken by the Block Education Officer, Shakaldiha, District Chandauli vide his letter dated 31.12.2024. Learned counsel for the petitioner further submits that the petitioner has no knowledge about any enquiry which has been conducted on that very complaint and as per the law and principles of natural justice a person who has made complaint must be given opportunity of hearing in the enquiry proceedings.

2. Thus, it appears that no enquiry has been conducted. If it is conducted in accordance with law, the District Basic Education Officer, Chandauli, is directed to submit his report through the Block Education Officer, Shakaldiha Chandauli.

3. The Block Education Officer, Shakaldiha District Chandauli, shall appear before this Court along with the entire documents making clear position about the complaint so that the Court may decide the present writ petition whether the order has been passed against the petitioner with malafide intention or not.

4. The Block Education Officer, Shakaldiha Chandauli, shall appear before this Court along with entire documents in three sets of photocopy so that the report may be verified by this Court.

5. Learned counsel for the District Basic Education Officer is directed to provide the complete instruction in respect of enquiry conducted on the complaint of the petitioner along with the forensic report of signature that is essential for enquiry as per the complaint made by the petitioner. If no such enquiry has been conducted, the same shall

be clearly mentioned in the instruction.

6. Put up this case as fresh on 17.10.2025, at 12.00 O'clock.

7. Learned Chief Standing Counsel is directed to send a copy of this order along with a letter indicating the entire facts so that further direction may be given to the Senior Superintendent of Police, Chandauli, to conduct enquiry and also submit his report in respect of forensic/handwriting examination as well as the visit of Smt. Anita Chauhan of that day for the end of justice."

8. Learned counsel for the petitioner submits that in compliance of the aforesaid directions, the Police Authorities, Chandauli has conducted enquiry and recorded statements of various persons and collected evidence.

9. Learned Standing Counsel for the State prays for and is granted four week's time to file counter affidavit bringing on record all the documents, statements and the enquiry report having prepared by the Police Officer.

10. Rejoinder, if any, may be filed within two weeks thereafter.

11. List this case as fresh on 15.4.2026."

10. Today, the learned counsel for the petitioner submits that the punishment order is punitive in nature as instead of punishing the teachers against whom complaint was made, the petitioner has been initially suspended and now the punishment order dated 17.09.2025 has been passed against him, therefore, the same is arbitrary and suffers from mala fide.

11. While further arguing the matter, he submits that a complaint was made regarding forged signatures being made by Sapna Jaiswal and Rekha Rai of an Assistant Teacher, namely, Anita Chauhan marking her presence, despite her being absent. The report which has been placed on record in compliance of orders passed by this Court also goes to show that on 21.12.2024, signatures as made of Anita Chauhan are forged. He

further submits that though, the complaint mentioned about absence of Anita Chauhan and forged signatures being made for marking presence on 19.12.2024 and 21.12.2024, only one day's signature i.e. of 21.12.2024 has been mentioned in the signature verification report. He further contends that annoyed by the complaint as made by the petitioner, the concerned teachers, namely, Poonam Mishra (Headmistress) and Anita Chauhan (Assistant Teacher) moved a complaint and as a result of the same, initially the petitioner was placed under suspension and now the punishment order has been passed, therefore, the order is unreasonable, without application of mind and suffers from biases. He further submits that the Anudeshaks, namely, Ajmat Fatma and Kumari Rubi, who had supported the allegations made by the petitioner against Anita Chauhan have also been punished in the form of giving a warning letter.

12. Learned counsel for the petitioner further submits that the petitioner has been transferred as a punishment on the basis of complaint of Assistant Teachers and other staff members, which cannot be done in view of the law laid down in the case of **Somesh Tiwari vs. Union Of India, reported in 2009 (2) SCC 592**. Learned counsel for the petitioner also contends that the transfer of the petitioner is in violation of the guidelines laid down in the Government Order dated 21.10.2025.

13. Learned counsel for the petitioner states at the bar that an appeal has also been filed against the punishment order, which is pending. He further submits that though, in the complaint made by Anita Chauhan and Poonam Mishra, there are allegations against the petitioner as well as two Anudeshaks, namely, Ajmat Fatma and Kumari Rubi but only the petitioner has been punished, which is in violation of the settled principles of law.

14. Learned counsel for respondents submit that the allegations as mentioned in the suspension order, charge sheet as well as the punishment order do not mention about any such complaint made by any of the persons, namely Poonam Mishra, Anita Chauhan, Sapna Jaiswal or Rekha Rai, on the basis of which, the impugned order has been passed. It is the manner of functioning, the conduct and behaviour of the petitioner with the other teaching and non-teaching staff, which has been taken into

consideration while passing the punishment order.

15. They further contends that the petitioner though, has pleaded mala fide against the Basic Shiksha Adhikari, however, he has not been impleaded by name and there are no specific averments in the petition, proving any biases or mala fide. The aforesaid fact regarding misbehaviour has also come in the report as placed before this Court and which has been noted by this Court in earlier detailed orders, which have been passed in the writ petition filed by the petitioner.

16. Learned counsel for respondents submit that the punishment/transfer order has not been passed based on any complaint, as no such thing has been mentioned in the order impugned. They also contend that the transfer is now seen in view of the latest Government Order dated 14.11.2025, wherein the pupil-teacher ratio has to be seen. Even otherwise, this transfer order has been argued to be in form of punishment, therefore, the Government Order as relied upon by the learned counsel for the petitioner is not applicable in the facts of the present case.

17. Learned counsel for respondents have also relied upon judgments as passed by this Court in **Writ - A No. - 9618 of 2025 (Sabiha Sultan @ Sabiha Sultan Saifi vs. State Of U.P. And 3 Others)** as decided on **24.07.2025** and **Writ - A No. - 9632 of 2025 (Dharvendra Pal Singh vs. State Of U.P. And 3 Others)** as decided on **24.07.2025**, wherein other legal objections, which may or may not have been taken by learned counsel for the petitioner, have also been considered and the petition has been dismissed, therefore, in view of the observations made by the Court in **Sabiha Sultan @ Sabiha Sultan Saifi (supra)** and **Dharvendra Pal Singh (supra)**, the present petition is liable to be dismissed. Even otherwise, once the petitioner has already availed the remedy of filing an appeal, which is still pending, the present petition challenging the same termination order is liable to be dismissed.

18. They further submit that now since the petition has been decided on merits, the petitioner cannot turn around to seek a direction for decision of the aforesaid appeal, which stands infructuous after decision passed by

this Court in the present writ petition, wherein termination order has been challenged.

19. This Court is of the opinion that the petition cannot be entertained on the ground that the transfer order is punitive, as there is no political motive or any such complaint, on the basis of which the petitioner has been transferred, as well as the impugned order also does not mention about any complaint on the basis of which the petitioner has been transferred.

20. In view of above, no interference is called for and the writ petition is **dismissed** accordingly.

21. Needless to say that as the report has already been placed before this Court with respect to Headmistress, namely, Poonam Mishra and Assistant Teacher, namely, Anita Chauhan as well as Anudeshaks, the concerned District Basic Education Officer is always at liberty to take appropriate decision relying upon the report as placed before this Court, if any.

(Mrs. Manju Rani Chauhan,J.)

April 23, 2026
K.N.