

(2003) 10 AHC CK 0076
In the Allahabad High Court
Case No : C.M.W.P. No. 49547 of 2002

Ahibaran Singh Kushwaha	Vs	APPELLANT
District Inspector of Schools and Others		RESPONDENT

Date of Decision : 10-10-2003

Acts Referred:

Citation : (2004) 1 AWC 257 : (2004) 1 UPLBEC 180

Hon'ble Judges : A.K. Yog, J

Bench : Single Bench

Advocate : Arvind Srivastava, for the Appellant; H.N. Pandey, A.K. Dwivedi, Piyush Shukla, C.P. Gupta and S.C., for the Respondent

Final Decision : Allowed

Judgement

A.K. Yog, J.—Heard the above learned counsel for the parties.

2. Notice given prior to filing of the writ petition as contemplated under Rules of Court and as is evident from the order sheet, time granted by Court, but no counter-affidavit has come forth on behalf of respondent Nos. 1 and 2 (Viz., District Inspector of Schools, Kannauj/Farrukhabad and Accounts Officer, Office of District Inspector of Schools, Kannauj/Farrukhabad) who are supposed to bring on record all necessary facts faithfully being Government Officers, supposed to assist the Court dispassionately as expected to have no personal interest or axe to grind and lastly because they are presumed to have possession of all the original record relevant to the case.

3. It is high time when Court must (both High Court and Supreme Court) give a fresh look to this problem and erring officials must be brought to book and bear the desired punishment both in service and personally to indemnify harass otherwise for deliberate negligence or incompetency for any reason whatsoever.

4. We are informed that every such Government employee has some influential political leader or person in power (irrespective of party) behind his back to shield him and hence it is practically not possible to punish him.

5. The moot question, therefore, is should the Court allow the judicial delivery system to be impaired though it has already suffered and its image in public endangered as public confidence and faith gets shaken when hearing of cases delayed to procedural wrangles.

6. Let us now come to the case.

7. Petitioner was holding charge of the post of Principal of a recognised Intermediate College, Mahatma Gandhi Inter College, Madhpura (Kannauj), U. P. (called "the college") when he was placed under suspension.

8. Being aggrieved, petitioner approached this Court through present writ petition under Article 226, Constitution of India, on the grounds, inter alia, amongst others that he was suspended vide order dated 1.7.2001 ; served with charge sheet the same day, thereafter suspension order approved by District Inspector of Schools on 28.7.2001 (Annexure-2 to the writ petition), but no enquiry held as envisaged under U. P. Intermediate Education Act, 1921 (as amended up-to-date)/U.P. Secondary Education Service Selection Board Act, Rules and Regulations framed and that the time frame for holding disciplinary enquiry conceived under the aforesaid statutes ignored with impunity.

9. Perusal of the charge-sheet (Annexure-2 to the writ petition) shows that petitioner was accused of mis-appropriating Rs. 42,000 belonging to Teachers Association in the year 2000-2001 ; not discharging his duties, indiscipline, illegal recovery from students and involved in anti-school activities. Except first charge, all the rest of the charges are as vague as one can be. Charge sheet also fails to indicate what material is being proposed to be relied in support of alleged charges against the petitioner.

10. It is not disputed by either side that petitioner has attained age of superannuation on 30 June, 2002. It is evident that charge is being framed when petitioner was shortly going to retire. The events speak for themselves. Events in the instant case smack of mala fide on the part of the then Manager.

11. No counter-affidavit has been filed by the management to show that any resolution was passed for initiating disciplinary proceedings. Otherwise also it was incumbent upon the District Inspector of Schools to ensure that the teacher is not being harassed, it is not for ulterior object/motive and suspension order ought to have been recalled if enquiry not initiated with desired expedition. It was probably to give ad hoc charge to some one "dear" to the then Manager of the College. It is apparent that the then District Inspector of Schools failed to discharge his statutory obligation faithfully or vigilantly. The petitioner has now retired on June 30, 2003. The suspension in question is, therefore, malicious which was resorted to harass and victimize the petitioner for no fault of his and only to somehow throw him out of office and lose control of the college.

12. No counter-affidavit having been filed, this Court is constrained to accept the averments contained in the writ petition. Petitioner contends that representations

filed by him did not receive response and fell on the "deaf ears" of the respondents.

13. This Court will not permit such victimisation of teachers, particularly head of the educational institution, lest it comes to find it out. In such matters, respondents by not filing counter-affidavit, indirectly encouraging malicious and vindictive action.

14. In view of the above, charge sheet dated 1.7.2001 is hereby quashed and a writ in the nature of mandamus is hereby issued commanding all the respondents, its agents, employees, servants, nominees, representatives, etc. to ensure payment of arrears of salary along with 10% simple interest per annum whatever may be due from the date of suspension till the date of attaining age of superannuation as well as ensure payment of post retiral benefits within three months of receipt of certified copy of this judgment.

15. I further award penal cost of Rs. 10,000 to be paid by respondent Nos. 1 and 2 within two months of receipt of certified copy of this judgment, to the petitioner and said/respondents shall recover the same from the "Committee of Management or through its Manager" by approaching the concerned District Magistrate who can recover it as arrears of land revenue.

16. Petition stands allowed subject to the directions/observations and the costs as indicated above.