

(2009) 05 AHC CK 0576
In the Allahabad High Court

Deen Bandhu Kaushik

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 12-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0576

Hon'ble Judges : Janardan Sahai, J and Yogendra Kumar Sangal, J

Final Decision : Disposed Of

Judgement

Yogendra Kumar Sangal, J.

This is a petition against an order of suspension dated 2.3.2009 against the petitioner who is the Chief Medical Officer posted at the District Maha Maya Nagar. In the order of suspension it is stated that the petitioner did not discharge his duties and did not take any interest in getting done certain works relating to Rashtriya Gramin Swasth Mission. A charge sheet dated 13.3.2009 was also issued to the petitioner in respect of these allegations. Subsequently two supplementary charge sheets dated 23.3.2009 and 29.4.2009 have been given to the petitioner. In the charge sheet dated 26.3.2009 several allegations relating to irregularities in the appointment of certain staff have been made. In the other charge sheet dated 29.4.2009 it is alleged that the petitioner had got made local purchase of certain medicines, the date of which had expired.

Sri Manu Khare counsel for the petitioner submitted that the charges, which are contained in the two supplementary charge sheets cannot be taken into account to validate the order of suspension. He placed reliance upon a decision of the Apex Court in Mohinder Singh Gill Vs. The Chief Election Commissioner, New Delhi [AIR 1978 SC 851]. As regards the allegation in the original charge sheet it is submitted that it relates to lack of supervision or want of efficiency on the part of the petitioner which does not constitute misconduct and therefore the order of suspension is invalid. Counsel for the petitioner then submitted that the allegations against the petitioner are malafide and that subsequent charge sheets have been issued to justify the suspension order earlier made.

We have considered the submissions made. The decision in Mohinder Singh Gill case relates to an election matter wherein it was held that public orders cannot be sustained on the fresh material or ground coming out in the shape of affidavit in the case. An order of suspension need not contain specific charges because it can be passed even in contemplation of enquiry where the rule provides. Specific charges are required to be framed in the charge sheet. The decision in Mohinder Singh Gill case is distinguishable on facts. In this case two supplementary charge sheets have been given to the petitioner in which charges levelled are quite serious in nature. In such circumstances, we do not find it a fit case for interference in exercise of jurisdiction under Article 226 of the Constitution. The allegation of malafide has not been substantiated.

Lastly, it was prayed that the respondents be directed to conclude the enquiry proceedings within a time bound period. We have considered the matter. After hearing the standing counsel, we dispose of the writ petition with the direction to the disciplinary authority to conclude the enquiry proceedings against the petitioner preferably within a period of three months from the date a certified copy of this order is produced before him, provided the petitioner cooperates in the enquiry proceedings.