
(2001) 11 AHC CK 0093
In the Allahabad High Court
Case No : C.M.W.P. No. 28117 of 1997

Gyan Singh Parihar

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 28-11-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 1 AWC 137 : (2002) 92 FLR 406 : (2002) 1 UPLBEC 607

Hon'ble Judges : Lakshmi Bihari, J;D.S. Sinha, J

Bench : Division Bench

Advocate : Mukesh Kumar and Ashok Khare, for the Appellant; S.C. and V.N. Agrawal, for the Respondent

Final Decision : Dismissed

Judgement

D. S. Sinha and Lakshmi Bihari, JJ.—Heard Shri Mukesh Kumar, holding brief of Shri Ashok Khare, learned Senior Advocate appearing for the petitioner, and Shri V.N. Agarwal, learned standing counsel of the State of U.P., representing the respondent Nos. 1 and 2.

2. By means of instant writ petition under Article 226 of the Constitution of India. Shri Gyan Singh Parihar, an employee of the State of U.P., seeks to challenge the order dated 31st July, 1997, a copy whereof is Annexure-5 to the writ petition.

3. The impugned order purports to place the petitioner under suspension pending proposed disciplinary enquiry against him relating to serious charges of fraud, embezzlement, bribery, fabrication of record and datas.

4. Whether an employee should or should not continue in his office during the period of disciplinary enquiry is a matter to be assessed by the concerned authority and ordinarily, the Court should not interfere with the order unless it is demonstrated to be mala fide and without there being a prime fade evidence on record connecting the employee with the misconduct in question. See U.P. Rajya Krishi Utpadan Mandi Parishad and Others Vs. Sanjiv Rajan,

5. It has not been demonstrated before the Court that the order is mala fide and without there being a prime facie evidence on record connecting the petitioner with the alleged misconduct, warranting interference by this Court in exercise of its discretionary jurisdiction under Article 226 of the Constitution of India.

6. It is relevant to notice that this petition was presented on 2nd September, 1997, and more than four years have elapsed since then. There was no impediment against proceeding with the enquiry against the petitioner. This Court did not pass any order staying the enquiry. Under these circumstances, it is reasonable to presume that by now the enquiry must have been finalized. If not, the Court expects that the enquiry will be completed as early as possible, but not later than three months from the date of production of a certified copy of this order before the Enquiry Officer.

7. For the reasons given above, and subject to the direction in the preceding paragraph, the petition is, dismissed summarily.