
(1994) 01 AHC CK 0052
In the Allahabad High Court
Case No : Writ Petition No. 3541 (S/S) of 1992

Hayat Husain Khan

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 13-01-1994

Acts Referred:

Citation : (1994) 01 AHC CK 0052

Hon'ble Judges : Brijesh Kumar, J and J.K.Mathur, J

Final Decision : Disposed Of

Judgement

B. Kumar, J.—Heard the learned counsel for the petitioner and perused the earlier orders passed by this Court. The State was granted time to file counter affidavit within six weeks by order dated May 29, 1992, but no counter affidavit seems to have been filed. Again one month's time was granted in December 1993, still no counter affidavit is coming forth on behalf of the State. Looking to all facts and circumstance, we feel that this is not a matter which may be allowed to remain pending for a long time only for the reason that the State is not choosing to file a counter affidavit. Since short question is involved and factual controversies do not seem to be there, we finally dispose of this petition after hearing learned counsel for the parties.

2. The grievance of the petitioner is that the enquiry proceedings have been started after much delay. The submission is that such proceedings are bad in law and are liable to be quashed. We have perused Annexure16 to the writ petition which is a copy of the charge sheet. It is dated 1251992. The first charge does not indicate any date or period of time during which the alleged misconduct is said to have been committed. So far, charge No. 2 is concerned, a perusal of the same indicates that it relates to something which happened in 1984 or earlier. The third charge is that the work was got done by the petitioner from his elder brother. This fact is denied. A perusal of the charges also indicates that they are trivial in nature. They relate to disposal of earth which appears to have been dug for completing the job of construction of a Nala. The first charge indicates that

some entries in the measurement book were not there and it relate to, as indicated above, about the earth dug out in connection with the job which was executed by the petitioner. The next charge is said to have come to the light at the time of inspection held in February 1984 and it relates to disposal of the earth which was dug out. The charges seem to be quite trivial in nature. The period of more than eight years had elapsed when the charge sheet was served upon the petitioner. It is also submitted that reply to the charge sheet, as directed by the first order of this Court, was also submitted in June 1992. More If years have passed, but nothing has happened in the enquiry during all these period. We find that charges seem to relate to the period ten years back. Explanation was submitted : nothing has happened thereafter. Learned counsel for the petitioner has placed reliance upon a decision of the Hon''ble Supreme Court reported in 1990 II SVLR (L) 21, State of Madhya Pradesh v. Bani Singh and another. In that case charge sheet was quashed on the ground that there was inordinate delay of 12 years in initiating the proceedings. In our view, looking to the nature of the charges and the fact that the charge sheet has been served after more than eight years, this case would also be covered by the proposition enunciated in the Judgment of the Hon''ble Supreme Court as relied upon by the petitioner.

3. In view of the discussion held above, we allow the petition and set aside the charge sheet as well as the disciplinary proceedings pending against the petitioner. There would, however, be no order as to costs.