

(2018) 11 UK CK 0245

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 606, 607 Of 2018

Jagdish Chandra KAndpal & Others

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 28-11-2018

Acts Referred:

Constitution of India, 1950 — Article 309

Citation : (2018) 11 UK CK 0245

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Singh, J

Bench : Division Bench

Advocate : Shobhit Saharia, Lalit Sharma, C.S. Rawat

Final Decision : Disposed Off

Judgement

Ramesh Ranganathan, C.J.

1. Heard Mr. Shobhit Saharia, learned counsel for the petitioners and Mr. C.S. Rawat, learned Additional Chief Standing Counsel appearing for the State of Uttarakhand and, with their consent, the writ petitions are disposed of at the stage of admission.

2. On the allegations that construction of a retaining wall of a bridge, connecting Jollygrant Airport to Dehradun city, was deficient, a preliminary inquiry was caused and, pursuant thereto, the petitioners were placed under suspension vide proceedings dated 15.10.2018. It is the petitioners' case that it is only because some defect was pointed out by the Chief Minister of the State, on inspection of the site, that action was initiated; and, since the complaint was made by the highest official of the State, the petitioners are unlikely to be let-off even if there is sufficient evidence adduced in the inquiry to establish that they are not guilty of any lapse.

3. On the other hand, Mr. C.S. Rawat, learned Additional Chief Standing Counsel, would submit that the petitioners' apprehension is wholly unfounded; in the departmental inquiry to be conducted, to enquire into these charges, the

petitioners would be given a fair and reasonable opportunity of being heard and to defend themselves; copies of any document, on which reliance is placed by the department, would be made available to the petitioners; and, since no mala fides are alleged against any individual nor has any person been arrayed as a respondent EO-NOMINE, no interference is called for with the orders of suspension.

4. The allegations levelled against the petitioners, if true, are undoubtedly grave and serious. The petitioners have been placed under suspension only after a preliminary report was submitted pursuant to a fact-finding inquiry. While it is, no doubt, true that the petitioners did not participate in the said inquiry, nor were they given an opportunity to do so, the preliminary inquiry report would only form the basis for taking disciplinary action against the petitioners and, in the departmental inquiry which would follow, reliance can only be placed on the preliminary inquiry report if a copy thereof is made available to the petitioners, and they are given an opportunity to rebut the allegations made therein.

5. The power to place a Government servant under suspension is conferred on the Government under the Rules made under Article 309 of the Constitution of India. Exercise of such power would seldom be interdicted by the court as the scope of judicial review, of an order of suspension, is extremely limited. Save mala fides or flagrant violation of the Rules in force, interference with the order of suspension may not be justified.

6. While we see no reason to interdict the orders of suspension passed against the petitioners, the fact remains that their suspension cannot be unduly prolonged. When we asked Mr. C.S. Rawat, learned Additional Chief Standing Counsel, as to what would be the reasonable time for the respondents to conduct the departmental inquiry and to complete it, learned Additional Chief Standing Counsel would fairly state that a time of four months be fixed for departmental action to be taken, and for the inquiry to be completed.

7. As we are satisfied that the orders of suspension, in the present case, are not in violation of any statutory rule or Rules made under Article 309 of the Constitution of India, and as no mala fides are alleged, we see no reason to interfere with the orders of suspension. Suffice it to direct the first respondent to hold a departmental inquiry in accordance with law; provide the petitioners a reasonable opportunity of being heard, to cross-examine the witnesses produced on behalf of the department, and to adduce evidence in their defence; and to conclude the departmental inquiry at the earliest and, in any event, within four months from the date of receipt of a copy of this order. Suffice it to make it clear that reliance shall be placed by the department on any document, including the preliminary inquiry / fact-finding report, only after the petitioners are given a copy thereof, and an opportunity to rebut its contents.

8. The writ petitions stand disposed of accordingly.