
(2002) 04 AHC CK 0076
In the Allahabad High Court
Case No : C.M.W.P. No. 43245 of 2001

Rajeev Yadav

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 18-04-2002

Acts Referred:

Citation : (2002) 2 AWC 1695 : (2002) 2 UPLBEC 1478

Hon'ble Judges : Rakesh Tiwari, J;M. Katju, J

Bench : Division Bench

Advocate : T.P. Singh and Ram Autar Verma, for the Appellant; H.R. Mishra, S.C., for the Respondent

Final Decision : Allowed

Judgement

M. Katju and Rakesh Tiwari, JJ.—Heard learned counsel for the petitioner and learned standing counsel for the respondents.

2. The petitioner is challenging the impugned order dated 4.12.2001 (Annexure-6 to the writ petition). The "petitioner was officiating secretary of a co-operative society. By means of the impugned order, the petitioner has been reverted back to his original substantive post of accountant. Sri H. R. Mishra, learned counsel for the respondent Nos. 5 and 6 states that since the petitioner was working as officiating secretary, he could be reverted back to his substantive post. In our opinion, since the Impugned order dated 4.12.2001, casts a stigma on the petitioner, it was necessary to afford an opportunity of hearing to the petitioner before passing the said order. A perusal of the impugned order shows that there were allegations of embezzlement and other misconduct against the petitioner. This is certainly casting a stigma on the petitioner.

3. It has been stated in paras Nos. 20, 21 and 25 of the writ petition that the impugned order was passed without affording an opportunity of hearing to the petitioner. In the counter-affidavit, this allegation is not denied and it has been stated that since the petitioner was only officiating secretary, it was not

necessary to give an opportunity of hearing to him.

4. In our opinion, since the impugned order casts a stigma against the petitioner, an opportunity of hearing had to be given to him. Since that was not done, we set aside the Impugned order dated 4.12.2001 but it is open to the authority concerned to pass fresh orders after affording an opportunity of hearing to the petitioner.

5. The writ petition is allowed with the aforesaid observations.

6. No orders as to costs.