

(1982) 10 AHC CK 0036
In the Allahabad High Court
Case No : Writ Petition No. 4377 of 1982

Rajpati Singh and Others

APPELLANT

Vs

The Distt. Administrative Committee and Another

RESPONDENT

Date of Decision : 19-10-1982

Acts Referred:

Citation : (1982) AWC 846

Hon'ble Judges : R.C. Deo Sharma, J;K.N. Goyal, J

Bench : Division Bench

Advocate : A. Mannan, for the Appellant; K.S. Bajpai, for the Respondent

Final Decision : Allowed

Judgement

K.N. Goyal, J.—Admit.

2. As only a short legal question is involved and affidavits have been exchanged, parties' counsel agree that the writ petition itself be disposed of finally.

3. The Petitioners are secretaries of certain primary agricultural co-operative credit societies and are governed by the Centralised Service Rules. They have been suspended by identically worded orders indicating that the suspension has been ordered in contemplation of an inquiry into a charge of "misuse of money belonging to the Co-operative Society and for failure to discharge their duties in a proper manner." Charge sheets have not yet been served though more than three months have passed. On the face of it the allegation is too vague inasmuch as it is all-embracing and does not give even a broad idea of the transactions or business of the Society in which the Petitioners are alleged to have misused the money belonging to the Society or to have failed to discharge their duties in a proper manner. The Petitioners have assailed the validity of Rule 13(3) on the ground that it confers an arbitrary and uncanalised power of suspension. This challenge was repelled by this very Bench in another case, and another Division Bench has agreed with our decision. So that question is no longer re-integra. It has been held that the very nature of the power implies certain limitations on its

exercise. The law contemplates that the competent authority may suspend a subordinate employee either during the pendency or in contemplation of a departmental inquiry or during the pendency of a criminal investigation, inquiry or trial against the employee. There should be some definite allegation against the employee about the correctness of which the competent authority has arrived at a prima facie satisfaction. It is not enough that the charge sheet, when served in the indefinite future on the employee, would contain the precise charges. Of course the details of the charges need not be specified in the suspension order. The details may be given later in the charge sheet. However, at least some indication of the nature of misconduct proposed to be charged should be given even in the suspension order when it is passed in contemplation of a departmental inquiry and a charge sheet is yet to be served. The employee should be able to gather from the language of suspension order some indication about his particular conduct to which exception has been taken. This is not available in the impugned orders. In the absence of even a broad indication of the nature of the specific allegation which is the foundation of a suspension order it will be difficult to accept that the authority had applied its mind to the facts and arrived at a prima facie satisfaction in that regard and before passing the order.

4. The suspension order has been in pursuance of the letter dated 8-7-1982, a copy of which has been annexed to the rejoinder. This letter merely says that certain secretaries named therein were to be suspended in connection with the question asked in the Legislative Assembly on that day about the "Neem Khali" affair. The nature of the allegations, if any, against those secretaries is not apparent even from this annexure R-1. The letter does not indicate the role played by any of the particular secretaries or by all of them collectively in connection with the "Neem Khali" matter, nor does it show what actually was wrong with the Neem Khali transactions. Thus it cannot be said that the authorities had arrived at a prima facie satisfaction prior to passing the impugned orders.

5. In this view of the matter the impugned orders cannot be sustained.

6. In the result the writ petition is allowed. The orders annexures 1 to 3 to writ petition are hereby quashed. It will, however, be open to the authorities to pass fresh orders in accordance with law. No orders as to costs.