
(2005) 11 AHC CK 0092

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 69059 of 2005

Rajveer Singh

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 11-11-2005

Acts Referred:

Citation : (2005) 11 AHC CK 0092

Hon'ble Judges : A.P.Sahi, J

Final Decision : Disposed Of

Judgement

A.P. Sahi, J.

1. Heard Shri P.N. Saxena, learned Senior Counsel for petitioner and Shri Vijai Gautam learned Counsel who? has filed counteraffidavit on behalf of respondent Nos. 2 and 3.

2. The petitioner has challenged the order dated 19.9.2005 whereby the respondent Nos. 2 and 3 have placed the petitioner under suspension and have further proceeded to hold enquiry against the petitioner in respect of the charges referred to therein. In the counteraffidavit filed by the respondents, the chargesheet which has been prepared in respect of the proposed enquiry, has also been filed and one Ajeet Singh has been disclosed as the Chairman of the Enquiry Committee which has been set up again the petitioner.

3. Learned Counsel for the petitioner contends that on the same set of charges, the Committee of Management has previously proceeded to suspend the petitioner, whereupon the matter was looked into by the Basic Education Officer and an order was passed on 21.4.2003 copy whereof has been annexed as Annexure 1 to the rejoinderaffidavit.

4. A perusal of the said order indicates that several charges have been levelled against the petitioner. There is, however, no explanation in the counteraffidavit as to why the enquiry proceeding did not proceed against the petitioner in spite

of the fact that the Committee had levelled the said charges against the petitioner long back. The matter has again taken up by the Committee and the chargesheet is dated 6.10.2005. It is thus, evident that even the chargesheet was not prepared when the order of suspension was passed or even prior to that. A perusal of the chargesheet would demonstrate that it contains almost six charges, which were matter of investigation by the Basic Education Officer on the earlier occasion. The order of suspension, therefore, proceeds on the basis of same charges which were in existence according to the respondents way back in the year 2003. The order of suspension, therefore, is founded on the basis of the earlier charges where after the petitioner had been allowed to continue in service.

5. Learned Counsel for the respondents contends that after the order was passed by the Basic Education Officer, the petitioner was invited to attend the institution but since he did not assume charge voluntarily, therefore, the petitioner has been again suspended and his salary towards July to Sept., 2005 was not paid, as he did not attend the institution. Sri Saxena, learned Counsel for petitioner has invited attention to the averments contained in the writ petition wherein it has been stated that the respondents have not permitted the petitioner to function in the institution and that the respondents have unjustifiably interfered with the continuance of the petitioner as Head Master of the institution.

6. Having heard learned Counsel for the parties and perused the records, it is evident that the petitioner has been suspended practically on the same charges as they were in existence in the year 2003. The suspension of the petitioner on the earlier occasion had been disapproved and the petitioner was allowed to continue on the post by the education authorities. The very same charges are not sought to be enquired by the Committee. The Committee, therefore, for reasons best known to it did not take any action against the petitioner for almost two and half years and has now proceeded to suspend the; petitioner again. There is obviously no explanation as to why the continuance of the petitioner would affect the enquiry proceeding which according to the respondent authorities they have now started after appointing an Enquiry Committee on 10.5.2003. On the other hand the allegations made against the petitioner are such that they deserve to be enquired. The respondents have also alleged that the petitioner had used the firearms for seeking entrance into the institution. It is in these circumstances that the petitioner had been attached another institution.

7. There is thus an unexplained inordinate delay in the process of enquiry against the petitioner. The order of suspension is founded on the same charges on which the petitioner had been suspended earlier, which order had been disapproved long back. The action of the Committee to suspend the petitioner again on the very same charges after a long gap of almost 2 1/2 years is not a bonafide action. If the Committee could wait for such a long time to serve the chargesheet and appoint an Enquiry Committee in October, 2005, then the petitioner cannot be deprived of his emoluments.

8. On the facts and circumstances stated above, it is evident that the enquiry

deserves to be concluded as expeditiously as possible. However, in view of the fact that there is no fault on the part of the petitioner in respect of the proceeding of enquiry, the respondents would not be justified in withholding the salary of the petitioner. Therefore, the petitioner shall continue to get his full salary provided he cooperates with the enquiry. The respondent Committee of Management shall complete the enquiry as expeditiously as possible within a period of three months from today and the Basic Education Officer shall also monitor the aforesaid position before whom a certified copy of this order shall be presented by the petitioner.

9. With the aforesaid directions, the writ petition stands disposed of.