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**(1999) 03 AHC CK 0047**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 13067 of 1999**

Ram Bhawan Singh

APPELLANT

Vs

State of U.P. and others

RESPONDENT

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**Date of Decision :** 31-03-1999

**Acts Referred:**

**Citation :** (1999) 2 AWC 1489 : (1999) 82 FLR 613 : (1999) 3 UPLBEC 135 :  
(1999) 2 UPLBEC 996

**Hon'ble Judges :** D.K. Seth, J

**Bench :** Single Bench

**Advocate :** L.M. Singh, for the Appellant;

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## Judgement

D. K. Seth, J.—The petitioner challenges the order dated 10.2.1999, by which he was suspended, on the ground that in the terms of Regulation 67 of the U. P. Co-operative Federal Authority (Business) Regulations, 1976, the order of suspension cannot be continued beyond 30 days. He further contends that the order of suspension is vague and baseless and therefore it cannot continue.

2. Learned counsel for the petitioner submits that the petitioner is not getting his salary and as soon as he demanded salary, he was placed under suspension.

3. Shri K. N. Mishra, learned counsel for the respondents, on the other hand, contends that from the impugned order it appears that the papers were forwarded to the Deputy Registrar in terms of Regulation 67 within 30 days period. Regulation 67 does not contemplate that unless any order is passed by the Deputy Registrar, the order of suspension shall stand revoked. The only obligation of the suspending authority is to forward the papers to the appointing authority being the Deputy Registrar which having been complied with there is no infirmity. He also points out from the impugned order that prima facie case has been made out, therefore, it cannot be said that the charges are vague and indefinite. Therefore, there is no infirmity in the order itself.

4. Mr. L. M. Singh, learned counsel for the petitioner had relied on the decision in

the case of Prem Babu Saxena v. District Magistrate, Bareilly and others 1988 UPLBEC 1182, in support of his contention.

5. I have heard learned counsel for the parties at length.

6. Regulation 67 of the U. P. Cooperative Federal Authority (Business) Regulations, 1976 provides that while suspending, the suspending authority is required to forward papers to the appointing authority, viz., the Deputy Registrar within a period of 30 days. The appointing authority is entitled to revoke the suspension upon receipt of such papers at any stage or at any point of time, in the present case, the Deputy Registrar has not passed any such order.

7. Mr. Singh, contends that it was mentioned in the impugned order that papers were forwarded but in fact, no papers were forwarded. Shri K. N. Mishra, learned counsel for respondents on the other hand disputes this contention and contends that all papers have been duly forwarded.

8. Be that as it may, it would be open to the petitioner to make a representation before the Deputy Registrar and in case, the papers are not forwarded within 30 days, it would be open to the respondents or the suspending authority to forward such papers within 15 days from the date a certified copy of this order is furnished to the suspending authority by the petitioner, in case such papers are placed before the Deputy Registrar, who may appropriate order according to his own wisdom and discretion without being influenced by any observation made in this order.

9. So far as the decision in the case of Prem Babu Saxena (supra), is concerned, in the said decision it was held that it is the duty of the suspending authority to forward papers and if such papers are placed before the Deputy Registrar, the Deputy Registrar is the authority to recall the order of suspension. But that decision has not laid down the ratio to the extent that in case no order is passed, the order of suspension shall stand revoked. Neither it was held to the extent that in case no papers were forwarded then also the order of suspension shall stand nullified. Regulation 67 only provides that the suspending authority is required to forward the papers to the disciplinary authority within 30 days, it does not provide anything beyond that. Therefore. I do not find any merit in the submission of Shri Singh in this context.

10. Since the petitioner was suspended on 10.2.1999, it is expected that the enquiry officer should conclude the enquiry as early as possible of preferably within a period six months from the date a certified copy of this order is produced before the concerned authority. Learned counsel for the petitioner contended that even the subsistence allowance is not being paid. Respondents shall ensure payment of subsistence allowance during the period the petitioner remains under suspension and including the arrears of subsistence allowance if any and, if not already paid. The question of payment of salary may be considered separately by the appropriate authority. In case charge-sheet is not issued, the same should be issued within a period of one month. If the charge-

sheet is not issued within the said period, the order of suspension shall stand revoked. In case the charge-sheet is issued within the stipulated period, then the order of suspension shall continue. The enquiry should be completed within a period of six months from the date of submission of reply to the charge-sheet by the petitioner. In case the enquiry is not concluded within a period of six months from the submission of reply by the petitioner, in that event, the order of suspension shall stand revoked after the expiry of six months. The respondents may complete the enquiry even after expiry of six months and the order of suspension and the payment of subsistence allowance shall be subject to the result of the enquiry. The petitioner, however, shall cooperate in the enquiry. Any adjournment, if sought by the petitioner, shall be excluded for the purpose of calculation of six months.

11. With the aforesaid observation, this writ petition is disposed of finally.

12. However, there will be no order as to cost.