

(2023) 11 UK CK 0129

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 3166 Of 2023

Satyapal Tyagi

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 29-11-2023

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2023) 11 UK CK 0129

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Vipul Sharma, Sushil Vashisth

Final Decision : Dismissed

Judgement

Pankaj Purohit, J

1. By means of this writ petition, petitioner has sought the indulgence of this Court commanding the respondent no.4 i.e. Chief Education Officer, Haridwar to lodge a First Information Report under the provisions of Prevention of Corruption Act and Indian Penal Code against respondent no.8, in view of the letter dated 05.12.2022, annexure-12 to the writ petition and letter dated 06.12.2022, annexure-13 to the writ petition, respectively and other consequential reliefs.
2. Heard learned counsel for the parties.
3. Petitioner is an Ex-President of the Committee of Management, C.M.D. Inter College Chudiyala, Tehsil Bhagwanpur, District Haridwar, who has been removed from the post of President in the year 2012.
4. It is contended that certain complaints were made by the petitioner and those complaints resulted into constitution of a Special Audit Committee which submitted its report on 20.05.2021. He further submits that respondent no.3 taking cognizance of the Special Audit Report vide letter dated 06.12.2022 directed respondent no.4 to lodge a first information report against the erring

personnel working with the C.M.D. Inter College, Committee of Management regarding the alleged embezzlement in the institution.

5. On 22.11.2023, learned State Counsel was directed to seek instructions as to whether the first information report was lodged or not. Yesterday i.e. on 28.11.2023, when the matter was taken up, a request was made on behalf of the learned counsel for the petitioner to adjourn the matter and the matter was adjourned for today.

6. Today, learned State Counsel produced written instructions dated 25.11.2023, as received from respondent no.4 and the same is taken on record. On the strength of the aforesaid instructions, it is submitted by learned counsel for the State that the earlier order of respondent no.2 i.e. Additional Director of Secondary Education, Garhwal Mandal, Pauri Garhwal was amended vide further order dated 26.04.2023 and consequently, no first information report was lodged against respondent no.8.

7. From perusal of the material available on record, it appears that the Special Audit Committee has raised certain audit objections in its report and the petitioner in order to settle score with the private respondent, who happened to be also the President of the C.M.D. College wants to take advantage of those report of the Special Audit Committee and has filed the writ petition before this Court for a direction for lodging the first information report.

8. The allegations which have been leveled by the petitioner in its petition relate to the year 2012 and as per law the petitioner has never been stopped to lodge the first information report, if he found an offence was being committed by any person. No assistance of any Court is required for lodging of the first information report and the petitioner was always free and is free to lodge any first information report against any person, if he feels that certain cognizable offence is being committed.

9. The Court does not intend to interfere in the writ petition while exercising its power under Section 226 of the Constitution of India. The writ petition, therefore, fails and is accordingly dismissed.