

**(2010) 05 AHC CK 0064**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 27481 of 2010**

Shambhu Dutt Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision :** 14-05-2010

**Acts Referred:**

**Citation :** (2010) 125 FLR 1094

**Hon'ble Judges :** Shabihul Hasnain, J

**Bench :** Single Bench

**Advocate :** N.L. Pandey, for the Appellant; Uma Nath Pandey, C.S.C., for the Respondent

**Final Decision :** Allowed

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## Judgement

Shabihul Hasnain, J.—Heard Sri N. L. Pandey, learned Counsel for the Petitioner and learned standing counsel for the opposite parties.

2. Petitioner, who is the Principal, has been placed under suspension vide order dated 5.5.2010 passed by the authorized controller. The order has been annexed as Annexure 15 to this writ petition. Normally, this Court does not interfere in the matter of suspension because any suspension in contemplation of the inquiry is not a punishment. It is normally passed only to facilitate the inquiry which is to be conducted on the basis of the charges levelled against the Petitioner. This Court has to see that the orders have been passed by the competent authority and they have been passed on application of mind independent of any other factor, extraneous to the facts of the case and extraneous to the powers of the appointing authority.

3. In the present case, contention of the Petitioner is that the order has been passed at the behest of the Sub-Divisional Magistrate, Haraiya, who has forced the District Inspector of Schools to pass the order of suspension against the Petitioner. In this regard the Petitioner has drawn the attention of this Court towards the letter dated 5th March, 2010 written by the Sub-Divisional

Magistrate to the District Inspector of Schools, Basti wherein he has directed the District Inspector of Schools to take punitive action against the Petitioner. The Sub-Divisional Magistrate is said to have received complaint of illegal gratification for issuing entrance admit cards to the students of class 10th and 11th. Vide letter dated 15th March, 2010 the Sub-Divisional Magistrate has narrated that the complaints were inquired into by him, oral evidence was taken and the charge of illegal gratification was found proved. He further submitted that the District Magistrate is also very angry as the District Inspector of Schools has not provided any report in this regard which was supposedly asked by the Sub-Divisional Magistrate or the District Magistrate. The order of the Sub-Divisional Magistrate is of 5.3.2010 and the suspension order has been passed on 5.5.2010.

4. The opening sentence of the order discloses that it is being passed in pursuance of the inquiry/command of the Sub-Divisional Magistrate dated 30.1.2010 and the letter of the District Inspector of Schools dated 18.3.2010. It clearly shows that the orders have not been passed independently by the authorized controller but on the directions of the higher authority. Learned Counsel for the Petitioner has cited before this Court number of judgments including the one which he has annexed with the writ petition as Annexure 9. Similar view has been taken by His Lordship in the said order that the executive authorities like the District Magistrate or the Sub-Divisional Magistrate do not have any jurisdiction to pass orders against the employees of the education department and interfere with the administration of the department directly or indirectly.

5. In this view of the matter, the Court comes to the conclusion that some element of extraneous pressure was working on the mind of the authorized controller when the suspension order was passed. The dictate of the Sub-Divisional Magistrate is writ large on the face of the order. Therefore, the Court deviating from the usual approach of non-interference in suspension matter feels that interference is required.

6. Learned standing counsel prays that he wants to seek complete instructions and file counter affidavit for which he is allowed three weeks. List this case immediately after three weeks.

Till the next date of listing, the impugned suspension order passed against the Petitioner, contained in Annexure-15 to the writ petition, shall remain stayed.