
(2006) 01 AHC CK 0113
In the Allahabad High Court
Case No : Special Appeal No. 46 of 2006

Sripal Singh	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 18-01-2006

Acts Referred:

Citation : (2006) 5 AWC 4996 : (2006) 109 FLR 162 : (2006) 3 UPLBEC 2306

Hon'ble Judges : Ajoy Nath Ray, C.J;Ashok Bhushan, J

Bench : Division Bench

Advocate : B.N. Singh and G.P. Singh, for the Appellant; H.R. Mishra and C.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Ajoy Nath Ray, C.J. and Ashok Bhushan, J.—We are in respectful agreement with the order passed by an Hon''ble Single Judge on 30.11.2005 dismissing the writ petition of the appellant, although, with respect, we would like to add certain other reasons than those given by his Lordship.

2. The admitted fact by the appellant-writ petitioner is that he retained Rs. 50,000/- (Rupees Fifty Thousand) of the respondents' money seeking to return it on monthly basis. This appears to have been done on his own unilateral decision. Not unexpectedly he was suspended and that order is dated 28.10.2005; the writ petition was directed against this order. The suspension order was communicated by the Member-Secretary.

3. In the Full Bench decision of Ram Chandra Pandey Vs. District Administrative Committee U.P. Primary Agricultural Co-operative Credit Societies Centralised Service, Bahraich and others, the first answer to the decided question in paragraph 16 clearly shows that the Member-Secretary can suspend a member of the centralised service even in the absence of a decision of suspension of the District Committee.

4. Learned Counsel for the appellant placed reliance on this case and it was he

who cited it. His submission was that the Full Bench has also decided that in the absence of the District Committee itself initiating a disciplinary inquiry, the power of suspension or the power of communication in favour of the Member-Secretary does not arise. The Full Bench stated its view both in paragraph 15 and in paragraph 16 (i): "...in the absence of a decision by the District Committee contemplating or initiating disciplinary inquiry..." the Member Secretary cannot pass an order of suspension.

5. With the greatest of respect, we have a little difficulty in understanding what can be meant by the phrase "decision by the District Committee contemplating... inquiry". A decision to initiate an inquiry is taken only after the contemplation is over. No committee ever "decides" merely to contemplate an inquiry, it simply contemplates it in appropriate circumstances.

6. The above statements are made with the greatest of respect to the Full Bench. In the manner, we respectfully understand the decision of the Full Bench, it appears to us that if it can be shown by the writ petitioner that in no view of the facts could it be said that the inquiry or even contemplation of an inquiry was in the mind of the District Committee or could have been in the mind of the District Committee, then and in that event, a decision to suspend taken alone by the Member Secretary cannot stand by itself.

7. The facts have to be very strong in favour of the writ petitioner under suspension, if he can allege and prove that even possibility of contemplation of inquiry against him by the District Committee cannot be even thought or imagined to exist in the facts and circumstances of a particular case. If he can show that, then he can also successfully challenge an order of suspension passed by the Member-Secretary. The facts of this case are not so strong in favour of the writ petitioner-appellant. As such the order of suspension was passed with jurisdiction.

8. The appeal is dismissed.