
(2003) 08 AHC CK 0007
In the Allahabad High Court
Case No : C.M.W.P. No. 6310 of 2003

Suresh Chandra Belwal

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 18-08-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Prevention of Corruption Act, 1988 — Section 12(11)(D), 13(2), 7

Citation : (2003) 6 AWC 5703

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Sudhir Agarwal, for the Appellant; S.C, for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.-

1. Petitioner Suresh Chandra Belwal, who was in police service, aggrieved by an order of transfer dated 17th October, 2002/2nd November, 2002, issued by Respondent No. 2, copy whereof is annexed as Annexure-4 to the writ petition, approached this Court by means of present writ petition under Article 226 of the Constitution of India with the prayer to quash the aforesaid transfer order.
2. Heard learned Counsel appearing on behalf of the Petitioner and the learned standing counsel for the Respondents.
3. The Petitioner was earlier suspended by an order dated 26th July, 2002, on the charges levelled against him in the suspension order and during the aforesaid suspension period, he has been transferred from district Ghaziabad to Gorakhpur Zone. The order of transfer dated 17th October, 2002 by which the Petitioner is aggrieved purports to transfer police personnel from district Ghaziabad to different zones. Learned Counsel for the Petitioner argued that the order of transfer is per se and based on mala fide for the reason that the same has been passed during the period when the Petitioner was already under suspension. It is

submitted that the Petitioner is facing criminal charge under the provision of Prevention of Corruption Act, 1988 and a case being case crime No. 738 of 2002, u/s 7/12(11)(D) and Section 13(2) of the Prevention of Corruption Act, 1988 has been registered against him.

4. A counter-affidavit has been filed in this petition at the admission stage itself and with the consent of learned Counsel for the parties the matter is finally heard and being disposed of.

5. Learned Counsel for the Petitioner has relied upon a document Annexure-6 to the writ petition, the letter dated 14th January, 2003, written by Senior Superintendent of Police, Ghaziabad, addressed to the Inspector General of Police, Human Rights, Police Head Quarters, Lucknow, wherein the Senior Superintendent of Police, Ghaziabad purports to submit his reports wherein he has stated that the trap against the Petitioner was falsely laid and the Petitioner was falsely implicated.

6. The fact remains that the admitted facts are that the Petitioner is an accused in a case under the Prevention of Corruption Act, 1988, in which he has only been released on bail and the trial is yet to commence. The Petitioner, it appears, has not challenged the suspension order, but has only challenged the transfer order, which according to him, cannot be passed during the period when the Petitioner was under suspension. All these facts are disputed and have been denied in the counter-affidavit filed by the Respondents.

7. The law with regard to the interference by this Court in exercise of powers under Article 226 of the Constitution of India with the order of transfer is settled in the case of Mrs. Shilpi Bose and others Vs. State of Bihar and others, . Learned Counsel for the Petitioner tried to make out a case of mala fide, which has been categorically denied and on perusal of the counter-affidavit, I am of the opinion that the case of mala fide could not be pointed out by the Petitioner with regard to his transfer. So far as the question of transfer of the Petitioner from one place to another place during the period when he was under suspension is concerned, learned Counsel for the Petitioner could not point out any statutory prohibition that the same cannot be done by the Respondents. In this view of the matter, this being purely administrative order whether Petitioner is attached to district Ghaziabad or to Gorakhpur Zone during the period of suspension is the question, which is to be decided by the superior authority at the administrative level.

8. In this view of the matter, this argument advanced on behalf of the learned Counsel for the Petitioner also fails. No other point has been argued by learned Counsel for the Petitioner to show that the order impugned in the present petition, either suffers from the manifest error of law or is bad in accordance with law.

9. In view of what has been stated above, this writ petition has no merits and is accordingly dismissed. The interim order, if any, stands vacated. However, there

will be no order as to costs.