

Court No. - 20

Case :- WRIT - A No. - 6796 of 2023

Petitioner :- Arun Kumar

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home U.P. Civil Sectt. Lko. And 3 Others

Counsel for Petitioner :- Manoj Kumar Mishra, Sharda Mohan Tiwari, Utkarsh Misra

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

1. Heard learned counsel for petitioner and learned State Counsel appearing on behalf of opposite parties.
2. Petition has been filed challenging order dated 14.08.2023 whereby petitioner's appointment on the post of Sub Inspector, Civil Police has been cancelled on the ground of concealment of criminal proceedings against him.
3. It has been submitted by learned counsel for petitioner that a bare perusal of impugned order will make it evident that petitioner's earlier appointment has been cancelled on the ground of pendency of Case Crime No.770A of 2012 under Sections 323, 324 and 504 IPC. It is also submitted at that time petitioner was a minor and was unaware with regard to pendency of aforesaid proceedings. It has also been submitted that prior to passing of impugned order, neither any show cause notice nor any opportunity of hearing has been granted to petitioner prior to cancelling of the appointment. It is submitted that the opposite parties have also not indicated as to how judgment of Hon'ble the Supreme Court in the Case of *Avtar Singh versus Union of India & Ors* reported in **(2016)8 SCC 471** is not applicable favouring the petitioner.
4. Learned State counsel however has refuted submissions advanced by learned counsel for petitioner with the submission that the petitioner was clearly aware with regard to pendency of criminal proceedings against him which he deliberately concealed in order to obtain employment with police, upon coming to know of aforesaid facts and verification of same, impugned order has been passed clearly keeping in mind the law enunciated in the case of *Avata Singh* (supra).
5. Upon consideration of submissions advanced by learned counsel for parties and perusal of material available on record, particularly the impugned order, it is quite evident that the same has been passed without issuing show cause notice or affording

any opportunity of hearing to petitioner.

6. Considering the fact that petitioner has earlier been granted appointment, he therefore acquired vested rights to continue on the said post and any order visiting the petitioner with civil consequences naturally is required to adhere to the object of Article 14 of the Constitution of India in so far as it relates to providing opportunity of hearing to petitioner. Such a course of action having not been taken by opposite parties clearly renders the order vitiated.

7. Consequently, the impugned order dated 14.08.2023 is quashed by issuance of a writ in the nature of certiorari at the admission stage itself granting liberty to opposite party to pass a fresh order but only after issuing show cause to petitioner and considering his reply to the same.

8. For the said purpose, petitioner shall be reinstated in service. Inquiry in case initiated shall be concluded expeditiously within a period of four weeks from the date of initiation subject to cooperation by petitioner.

9. With the aforesaid directions, petition stands **allowed**. Parties to bear their own costs.

Order Date :- 25.9.2023

Subodh/-