

Court No. - 5

Case :- WRIT - A No. - 10638 of 2021

Petitioner :- Dr.Kafeel Ahmad Khan

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Manish Kumar Nigam,Manoj Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Saral Srivastava,J.

Heard learned counsel for the petitioner and Sri A.K. Goel, learned Additional Chief Standing Counsel for respondents no.1 and 2.

The petitioner by means of present writ petition has assailed the suspension order dated 31.07.2019 passed by respondent no.2 on the ground that the suspension order has been passed on 31.07.2019 and more than two years have passed, the enquiry has not been concluded against the petitioner and hence, the suspension order cannot remain in force in view of the judgement of the Apex Court in the case of *Ajay Kumar Choudhary Versus Union of India (2015) 7 SCC 291*. He further contends that since the petitioner is already a suspended employee, therefore, there is no purpose of passing second suspension order. He submits that there is no Rule which permits the State Government to issue a fresh suspension order when the employee is already under suspension.

Sri A.K. Goel submits that enquiry report against the petitioner has been submitted on 27.08.2021, copy of which has been sent to the petitioner on 28.08.2021 asking the petitioner to submit objection against the enquiry report. He submits that enquiry shall be concluded expeditiously. He further submits that the disciplinary authority has inherent power to pass second suspension order and, therefore, the order impugned is as per law.

Considering the submissions advanced by the parties, matter requires consideration.

All the respondents are granted four weeks time to file counter affidavit. Four weeks thereafter is allowed to the petitioner for filing rejoinder affidavit.

Until further orders of this Court, the operation of order dated 31.07.2019 passed by respondent no.2 shall remain stayed. However, it is directed the respondent no.2 to conclude enquiry against the petitioner within a period of one month. It is further

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provided that the petitioner shall cooperate in enquiry and in case the petitioner does not cooperate in the enquiry, the disciplinary authority may proceed to conclude the enquiry ex parte.

List on 11.11.2021.

When the matter is next listed, the respondents shall inform the Court about outcome of the enquiry.

Order Date :- 9.9.2021

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