



2026:AHC-LKO:7861-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL No. - 42 of 2026

Arvind Kumar Yadav

.....Appellant(s)

Versus

State Of U.P. Thru. Prin. Secy./Secy. Food Safety
And Drug Administration Deptt. And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	: Apoorva Tewari, Akriti Agarwal, Ashok Kumar Yadava
Counsel for Respondent(s)	: C.S.C.

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. Heard.

2. This is an appeal by the appellant-petitioner challenging judgment and order dated 14.01.2026 passed in Writ-A No.49 of 2026 by which his writ petition challenging an order of transfer dated 29.12.2025 and the consequential reliving order dated 02.01.2026 has been dismissed.

3. The contention of appellant-petitioner before us is that the order of transfer was malicious in law an aspect which dealt with by the writ-Court failed to consider appropriately. Secondly, the charge-sheet mentions only documentary evidence, therefore, merely because the appellant-petitioner was to be allowed to continue at Ghaziabad, it could not have given any reason to believe that he would tamper with any evidence which may have to be led during inquiry as there are no witnesses proposed to be examined in such inquiry.

4. Additional Advocate General, Shri Anuj Kudesia, has opposed the appeal.

5. Having heard the learned counsel for the parties and having perused the record, no doubt in a writ petition filed by the appellant-petitioner his attachment was stayed vide order dated 08.12.2025 but that was on the ground that there was no disciplinary proceedings contemplated at that

stage and the writ petition is still pending. Thereafter, the petitioner was placed under suspension in contemplation of departmental proceedings vide order dated 08.12.2025. This was also put to challenge by the appellant-petitioner by means of Writ-A No.14448 of 2025 and by an order dated 15.12.2025 the writ-Court stayed the same. Thereafter, the order dated 29.12.2025 was passed by the Secretary, Department of Food Safety and Drug Administration, transferring the petitioner from Ghaziabad to Mahoba as Assistant Commissioner, Food-II. It is this order which was put to challenge by the appellant-petitioner in Writ-A No.49 of 2026 which has been dismissed.

6. As regards malice in law merely because he has been transferred from Ghaziabad to Mahoba subsequent to stay of his attachment order and the suspension order by itself does not lead us to conclude that there is some malice in law involved herein. There is no such norm or rule or expected behaviour which has been violated or deviated from so as to enable us to arrive at a conclusion that the transfer order impugned before the writ-Court suffered from malice in law. As regards the other contention that appellant-petitioner's posting at Ghazibad does not lead to any reasonable basis that he would in any manner interfere with the disciplinary proceedings as they are first of all to be conducted at Lucknow and not at Ghaziabad and secondly the evidence mentioned therein is purely documentary, this is also not acceptable. While staying the attachment order, liberty was granted to the opposite parties to transfer the appellant-petitioner in case of administrative need or public interest, if so required.

7. The order of transfer dated 29.12.2025 though it does not specifically mention the term administrative need or public interest nevertheless what comes out from the transfer order itself is that it mentions that the post of Assistant Commissioner, Food-II at Mahoba was vacant, therefore, the appellant-petitioner was being transferred there. Now the post in question is transferable one. There is no loss of salary or emolument on account of the transfer order dated 29.12.2025. In view of this, we are not convinced to interfere with the judgment passed by the writ-Court. The appellant-petitioner should join at the transferred place and thereafter, if he so wants, he can move an application before the Transferring Authority seeking his attachment or transfer elsewhere giving good reasons for the

same which can be considered as per law. If any such application is already pending, the same shall be considered and appropriate order can be passed thereon uninfluenced by this order or the dismissal of the writ petition but at the earliest, say within three weeks.

8. Disposed of.

(Abdhesh Kumar Chaudhary,J.) (Rajan Roy,J.)

February 3, 2026

MVS/-