



2026:AHC:10449

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 393 of 2026

Mukesh Chand @ Mukesh Kumar

.....Petitioner(s)

Versus

The State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Arya Gautam, Atipriya Gautam, Jay Vishwanath Pandey, Sr. Advocate
Counsel for Respondent(s)	: C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Vijay Gautam, learned Senior Counsel assisted by Ms. Vaishnavi Srivastava (UP 36077/2025) holding brief of Ms. Arya Gautam, learned counsel for the petitioner and Sri Prashant Kumar Mishra, learned Standing Counsel for the State.
2. A joint statement has been made by the rival parties and learned Additional Chief Standing Counsel propose that he does not propose to file any affidavit in the writ petition and the writ petition be decided on the basis of documents available on record with the consent of the parties at the fresh state.
3. The case of the writ petitioner is that the writ petitioner while posted as Constable on 26.10.1998 and Head Constable on 26.10.2018 while the writ petitioner was working as Head Constable, he was placed under suspension by virtue of an order dated 20.12.2025 by the Superintendent of Police, Kashganj owing to certain allegations in the wake of the contemplation of the enquiry in exercise of the powers conferred under Rule 17 (1) (a) of the Uttar Pradesh Police Officers of Subordinate Rank (Punishment and Appeal) Rules 1991.
4. Questioning the suspension order the present writ petition has been preferred.
5. Learned counsel for the writ petitioner submits that though the writ petitioner was placed under suspension on 20.12.2025 but on 29.12.2025 a communication was issued by the SHO Police Station Kashganj requiring

the petitioner to come and participate in a preliminary enquiry.

6. Argument of learned counsel for the writ petitioner is that the suspension order cannot be sustained particularly when it can only be passed in those contingencies wherein any enquiry is contemplated or pending, however, here in the suspension order it has been mentioned that enquiry is contemplated but the communication dated 29.12.2025 itself shows that the preliminary inquiry is being conducted and thus it cannot be said in the eyes of law that departmental enquiry is pending or contemplated. He submits that post outcome of preliminary enquiry regular departmental enquiry may or may not be conducted.

7. Reliance has been placed on the judgment of this Court in the case of ***Sachchida Nand Tripathi vs. State of U.P. and 2 others passed in Writ-A No.69308 of 2013*** decided on 17.12.2013, a copy of which has been filed as part of Annexure-5 to the writ petition, wherein this Court expressed the view that even though it was the prerogative of the employer to place its employee under suspension in contemplation of departmental inquiry but when the competent authority has found it expedient to first hold a preliminary fact finding inquiry before taking decision as to whether a regular departmental inquiry should be held or not, it would have to be taken to mean there was no regular departmental inquiry in contemplation and as such it cannot be said to be a suspension in contemplation of departmental enquiry/proceeding.

8. Learned Standing Counsel on the other hand submits that the allegations on which the writ petitioners have been placed under suspension are grave and serious. However, he could not dispute the fact that in view of the communication dated 29.12.2025 a preliminary has been directed to be conducted and in the said backgrounds suspension cannot be resorted. He submits that the suspension order is set aside and matter be remitted back to the authorities to pass a fresh order.

9. Having heard the submissions so made across the Bar and bearing in mind the fact that post order on suspension there is communication for holding a preliminary enquiry and suspension can only be resorted for post conduction of preliminary enquiry if required at all. Thus follow the judgment in the case of ***Sachindra Nand Tripathi (supra)*** the impugned order cannot be sustained.

10. Accordingly, the writ petition is disposed of and the order dated 20.12.2025 passed by the Superintendent of Police, Kashganj placing the writ petitioner under suspension is set aside. Liberty is accorded to the competent authority to pass a fresh order strictly in accordance with law post conclusion of the preliminary enquiry.

January 16, 2026

A. Prajapati

(Vikas Budhwar,J.)