



2026:AHC:12096

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 18747 of 2025

Mahesh Upadhyay

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Arpan Kumar Pandey
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Shri Namit Srivastava, learned counsel for the writ petitioner as well as Shri Vijay Lal, learned Standing Counsel for the State.

2. This Court on 12.12.2025 has passed the following orders:

"Learned Standing Counsel may seek instructions in the matter.

List again on 19.12.2025 as fresh case. "

3. Today, instructions have been forwarded by Shri S.K. Pal, learned Addl. Chief Standing Counsel, which are taken on record and marked as Appendix 'A'.

4. Shri S.K. Pal, learned Addl. Chief Standing Counsel submits that he is well equipped with the instructions and he is in a position to argue the matter and he does not propose to file any affidavit.

5. With the consent of the parties, the petition is being decided at the fresh stage.

6. The case of the writ petitioner is that while he was posted as Head Constable, a matrimonial discord occurred between husband and wife and they came to the Police Station, where a compromise was entered into between them. Thereafter, the husband and wife left the Police Station and went to their house and, thereafter, the husband committed suicide. The allegation is that the writ petitioner had administered beating and also demanded illegal gratification, which led to the situation whereby the

husband committed suicide. Thereafter, the writ petitioner was placed under suspension on 10.07.2025.

7. Learned counsel for the writ petitioner submits that there is no question of involvement of Section 306 I.P.C. and, further, the writ petitioner was only instrumental in getting the matter pacified. Whatever happened subsequently cannot be vouched by the writ petitioner. He further submits that even otherwise, the suspension order cannot be sustained, as though in the suspension order, it is stated that disciplinary inquiry is contemplated but now a preliminary inquiry is being conducted. He further submits that the purpose of the preliminary inquiry is to conduct a fact-finding inquiry in order to gather material or substance while taking a decision whether the case is fit for suspension or not. However, placing a Police personnel under suspension and then conducting a preliminary inquiry is something novel and foreign to service jurisprudence. He further relied upon the decision of the Division Bench judgment of this Court in ***Kripa Shankar Prasad vs. State of U.P. and others (2004) 1 ESC 33*** and also placed reliance in ***Writ-A No.69308 of 2013 Sachidanand Tripathi Vs. State of U.P.*** decided on **17.12.2013** as well as various circulars issued from time to time, wherein such type of practice has been depreciated.

8. On the other hand, Shri S.K. Pal, learned Addl. Chief Standing Counsel submits that whatever might be the allegations, they are there against the writ petitioner justifying placing the writ petitioner under suspension and this Court may not enter into the merits of the charge, at this stage. However, he further submits that the suspension order could not have been passed once a preliminary inquiry is now being initiated. He further submits that the suspension order be set aside, leaving it open for the authorities to pass a fresh order, if occasion arises and is required, post holding of the preliminary inquiry.

9. I heard the submission so made across the Bar and perused the records. Facts are not in issue. It is not in dispute that the writ petitioner was placed under suspension by order dated 18.7.2025 and on the date of filing of the present petition i.e. 03.12.2025 no charge sheet had been framed. However, on page No.7 of the instructions depicts that a preliminary inquiry is directed to be conducted. In the opinion of this Court, a preliminary inquiry is to be

conducted first and then suspension order, if required, is to be passed and not otherwise.

10. Accordingly, the writ petition stands disposed off in the following terms:

- i. The order dated 18.7.2025 passed by the Superintendent of Police, Fatehgarh, is set aside.
- ii. However, liberty is accorded to the respondents to pass a fresh order post-outcome of the preliminary inquiry.
- iii. In case the writ petitioner has been suspended and his allowances were withheld, the same shall be paid to the writ petitioner, subject to fulfillment of statutory rules.
- iv. The inquiry is to be conducted and concluded within a period of three months.

January 19, 2026

N.S.Rathour

(Vikas Budhwar,J.)