



2026:AHC:10283

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 318 of 2026

Roshila

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Archana Singh, Bramh Narayan Singh
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Bramh Narayan Singh, learned counsel for the writ petitioner and Sri Gaurav Singh, learned Standing Counsel for the State.
2. A statement has been made at Bar by the learned counsel for the rival parties that they do not propose to file any affidavit and the writ petition be decided on the basis of the documents available on record.
3. With the consent of the parties, the writ petition is being decided at the fresh stage.
4. The case of the writ petitioner is that while the writ petitioner was as Head Constable and he was placed under suspension for the reason that he had committed certain acts and omissions pursuant where to he was confined in Jail in first FIR No. 608 of 2025, under Sections 132, 352, 351(2) of the BNS. Learned counsel for the writ petitioner submits that though the writ petitioner could not have been suspended, particularly, when he had not committed any misconduct and though in the suspension order, it is mentioned that the inquiry is contemplated that but while inviting attention of the Court towards page 29 of the paper book, he submits that now a preliminary inquiry has been directed to be conducted vide order dated 31.12.2025. Learned counsel for the writ petitioner submits that in view of the provisions contained under Rule 17 (1)(a) of the Uttar Pradesh Police Officers of Sub-ordinate Rank (Punishment and Appeal) Rules, 1991. The preliminary inquiry is to be conducted before suspension, however, it cannot be post the same. Reliance has been placed on the judgment of this Court in the case of *Sachchidanand 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.

5. Learned Standing Counsel on the other hand submits that the allegations on which the writ petitioner was placed under suspension are grave and serious. However, by virtue of the communication dated 31.12.2025, the preliminary inquiry post-suspension has been ordered.

6. 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 conclusion of preliminary enquiry if required at all. Thus follow the judgment in the case of **Sachchidanand Nath Tripathi (supra)** the impugned order cannot be sustained.

7. Accordingly, the writ petition is **disposed of** and the order dated 26.12.2025 passed by Respondent no.3, Deputy Commissioner of Police, Commissionerate, Ghaziabad 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.)