



2026:AHC:12053

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 7824 of 2022

Arvind Kumar

.....Petitioner(s)

Versus

State Of U P And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Durvesh Kumar, Prabhakar Awasthi, Saurabh Tripathi
Counsel for Respondent(s)	:	C.S.C.

Along with :

- Writ - A No. 13889 of 2022:**
Parikrama Deen
Versus
State of U.P. and 6 others
- Writ - A No. 7161 of 2022:**
Virendra Kumar Yadav
Versus
State of U P and 2 others
- Writ - A No. 7549 of 2022:**
Shiv Bir Singh
Versus
State of U P and 2 others
- Writ - A No. 9333 of 2022:**
Raj Kishor
Versus
State of U P and 2 others
- Writ - A No. 8294 of 2022:**
Vishram Singh
Versus
State of U.P. and 2 others
- Writ - A No. 12388 of 2022:**
Sanjay Yadav
Versus
State of U P and 2 others
- Writ - A No. 13926 of 2022:**
Dan Singh
Versus
State of U.P. and 6 others
- Writ - A No. 13927 of 2022:**
Dinesh Kumar Yadav
Versus
State of U.P. and 6 others
- Writ - A No. 13935 of 2022:**

- Anil Kumar Yadav
State of U.P. and 6 others
- Versus
10. **Writ - A No. 13872 of 2022:**
Shiv Bahadur
- Versus
- State of U.P. and 6 others
11. **Writ - A No. 13932 of 2022:**
Sanjay Kumar
- Versus
- State of U.P. and 6 others
12. **Writ - A No. 14328 of 2022:**
Smt. Sanyog Lata
- Versus
- The State of U.P. and 6 others
13. **Writ - A No. 13924 of 2022:**
Pravin Kumar Singh
- Versus
- State of U.P. and 6 others
14. **Writ - A No. 13937 of 2022:**
Anand Prakash
- Versus
- State of U.P. and 6 others

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Prabhakar Awasthi, learned Senior Counsel assisted by Sri Durvesh Kumar as well as Sri Rishabh Kesharwani and Sri Devesh Mishra, learned counsel for the petitioners in leading and connected writ petitions and Sri S.K. Pal, learned Additional Chief Standing Counsel for the State.
2. A joint statement has been made by learned counsel for the parties that they do not propose to file any additional 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 admission stage.
4. Since common questions of law are involved in the bunch of writ petitions, thus, they are being decided by a composite order.
5. The case of the writ petitioners is that they have pursued High School from U.P. Board in different years and also cleared intermediate. The

petitioners are also graduates. A notification/advertisement came to be published from the Office of the Senior Superintendent Jail on 19.04.2006 inviting applications for the post of *Bandi Rakshak* (Jail Warder). The petitioners claiming themselves to be fully eligible and qualified in all respect applied in pursuance thereto. It is the case of the writ petitioners that they had no point of time claimed weightage of sports quota in that regard. The writ petitioners were appointed on several dates and they were also confirmed. However, a first information report came to be lodged on 11.02.2015 by the Sub-Inspector, Police, Vigilance against the writ petitioners purported to be under Sections 218, 420, 467, 468, 471 and 120B IPC read with Section 13(1)(d) and 13 (2) of the Prevention of Corruption Act being FIR No.0047 of 2015. Thereafter a show cause notice came to be issued on various dates show causing the writ petitioners as to why their appointment be not cancelled and the services be not dispensed with since they had committed fraud while fabricating documents. The petitioners claim to have submitted an application being the request letter for furnishing of certain documents, so as to give effective reply to the show cause notice. In so far as the writ petitioner in the leading writ petition had sought as many as 13 documents on 31.01.2022. According to the writ petitioners, certain documents ranging from serial Nos.7 to 13 of their request letter dated 31.01.2022 was furnished, however, rest of the letters were not furnished and the petitioners were under the impression that the said documents which were the basis for issuance of show cause notice would be served. However, on 08.02.2022, a final notice came to be issued requiring the petitioners to submit their reply otherwise their appointment orders shall be cancelled. The writ petitioner in the leading writ petition submitted a letter dated 18.02.2022 seeking furnishing of the documents which were not served which was the basis for holding the writ petitioners to be ineligible. However, according to the writ petitioners, on 16.04.2022 an order came to be passed by the Senior Jail Superintendent, Central Jail, Agra cancelling the appointment of the writ petitioners and directing for making consequential recovery.

6. Questioning the said order, the leading and connected writ petitions came to be preferred. In the leading writ petition, on 23.05.2022 the following order has been passed:

"Heard Sri Prabhakar Awasthi, learned counsel for the petitioner and learned A.C.S.C. for respondents.

The instant writ petition has been filed for quashing the impugned order dated 16.4.2022 passed by Senior Jail Superintendent, Central Jail, Agra whereby the original appointment of the petitioner has been cancelled.

Learned counsel for the petitioner submits that petitioner applied for the post of Bandi Rakshak (Jail Warder) vide application dated 13.5.2006 and has not marked the Column 7-ga in the application form with regard to any sport certificate. Learned counsel for the petitioner submits that after the show cause notice was issued, he fairly conceded that an application has been moved for providing relevant document i.e. tabulation sheet to the effect whether the petitioner was awarded any marks under the sports quota or not and instead of providing the said information, the impugned order has been passed. Learned counsel further submits that the petitioner is a confirmed Jail Warder and, as such, his appointment cannot be cancelled on this ground. He further submitted that departmental enquiry has been provided under Rule 7 of U.P. Government Servant (Discipline and Appeal) Rules, 1999 and his appointment cannot be cancelled in the inquiry of summary nature.

Matter requires consideration.

Learned A.C.S.C. for the respondents prays for and is granted six weeks time to file counter affidavit.

Rejoinder affidavit, if any, be filed within two weeks thereafter.

Put up this matter again on 18.07.2022, as fresh.

Till the next date of listing, the respondents are restrained from recovering salary of the petitioner pursuant to the impugned order."

7. Counter affidavit has been filed by the respondents to which rejoinder affidavit has been filed.

8. Learned counsel for the writ petitioners in the leading and connected writ petitions have sought to argue that the order dispensing with their services and cancelling the appointment and making consequential recovery cannot be sustained for the simple reason that once certain documents are being demanded by the writ petitioners while making request letter then first of all the said documents have to be furnished as without furnishing of the said documents the writ petitioners would not be in a position to give an effective reply. Argument is that furnishing of document is one of the factors which shows transparency in the matter and the respondents cannot pick and choose while furnishing some documents and denying furnishing of certain

other documents. Submission is also to the extent that the documents which the writ petitioner sought were relevant and they were necessary so as to give a suitable reply. They further submits that the document which the writ petitioner has sought cannot be said to be a confidential document. It is also contended that the writ petitioner were waiting that the documents would be furnished to them which were earlier not furnished request thereof was made on 18.02.2022 however without passing any order allowing or rejecting the furnishing of the documents the order impugned came to be passed which is in violation of principles of natural justice.

9. Sri Prabhakar Awasthi, learned Senior Counsel assisted by Sri Durvesh Kumar as well as Sri Rishabh Kesharwani, who appeared for writ petitioners has made a statement as per the specific instructions received from client that an opportunity be accorded to the writ petitioner to give a reply to the show cause notice while setting aside the order impugned in the writ petitions and post passing of the order after remand by this Court their reinstatement and joining be made subject to the same.

10. Sri S.K. Pal, learned Additional Chief Standing Counsel, who appears for the respondents has submitted that the orders impugned are valid in accordance with law and no faults whatsoever can be attributed. Submission is that criminal cases has been lodged against the petitioners and further there happens to be interpolations made by the petitioners and according to him show cause notice was issued and the writ petitioners were directed to submit reply to the same however they in order to avoid submission of reply sought furnishing of certain documents which were totally irrelevant and the writ petitioners were furnished those documents which were important in that regard. However, the writ petitioners in order to forestall the passing of any final order did not reply but demanded document. He however submits that in order to sort out entire thing, he has no objection to the suggestion made by the learned counsel for the petitioners that petitioners shall be accorded a final opportunity to submit their reply and their reply so submitted shall be considered and order would be passed in this regard.

11. I have heard the submissions so made across the bar and perused the record.

12. Apparently the writ petitioners in the leading and connected writ petitions happen to have been appointed on the post of Jail Warder. A first

information report bearing No.0047 under Sections 218, 420, 467, 468, 471, 120B IPC came to be lodged against the petitioners on 11.02.2015 by the Superintendent of Police, U.P., Vigilance Department. The allegation is with regard to the fact that the petitioners had staked their claim under sports quota. However, on investigation by the respondents it was found that the claim set up by the petitioners were bogus and they had projected a certificate which they never possessed. Thereafter, a show cause notice came to be issued requiring the petitioners to submit reply. The writ petitioners sought furnishing of certain documents. Some of the said documents were furnished to the petitioners. However, they insisted by means of another letter for furnishing of document which was not found acceptable by the respondents and the impugned orders came to be passed. In the opinion of Court, something more was also required from the respondents as they have not passed the order rejecting the request of furnishing the documents, but without informing the present writ petitioner that documents are not being furnished, the final order came to be passed which is not legal. As suggested by learned counsel for the petitioners and accepted by Sri S.K. Pal, learned Additional Chief Standing Counsel that the writ petitioners would be given a final opportunity to reply to the show cause notice, thus, this Court without further delving into the matter is deciding the writ petitions in the following terms:

(a) The impugned orders dated 14.04.2022, 16.04.2022, 04.05.2022, 11.06.2022 and 16.06.2022 passed by the respondents are set aside in leading, connected C1 to C14. Matter stands remitted back to the concerned authority to pass fresh order.

(b) Since the writ petitioners are having knowledge of the show cause notice as it has been annexed along with the writ petition, thus, they shall tender their reply **by 13.02.2026**.

(c) On furnishing of the said reply, the appointing authority/competent authority shall communicate by way of Speed Post, Email and Whatsapp to the writ petitioners about the date of hearing. The hearing will be conducted in the **second week of March, 2026** and the order be passed **within two months thereafter**. The reinstatement/joining of the writ petitioners shall depend upon the fresh orders to be passed post

remand by this Court.

(d) Since the order has been passed in presence of learned counsel for the petitioners and also Sri S.K. Pal, learned Additional Chief Standing Counsel, thus, it would be deemed that they have full knowledge about the order passed by this Court today.

(e) The benefit of the order passed today shall only be applicable to the writ petitioners once they adhered to the timelines and do not violate any of the conditions of the order.

13. With the said observations, all the writ petitions stand **disposed of**.

January 14, 2026
R.S. Tiwari

(Vikas Budhwar,J.)