



2026:AHC:6459

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 17535 of 2025

Rajesh Kumar Dwivedi

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Ayushi Dwivedi, Siddharth Khare, Sr. Advocate
Counsel for Respondent(s)	: C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Instructions filed in the Court today are taken on record and marked as appendix 'X' and 'Y'.

2. Heard Sri Ashok Khare, learned Senior Advocate assisted by Sri Siddharth Khare, learned counsel for the writ petitioner as well as Sri S.K. Pal, learned Additional Chief Standing Counsel for the State.

3. Sri S.K. Pal, learned Additional Chief Standing Counsel has made a statement at the Bar that he has obtained instructions and he is in position to argue the matter and he does not propose to file any affidavit and the writ petition be decided on the basis of the documents available on record. With the consent of the parties, the writ petition is being disposed of at the fresh stage.

4. The case of the writ petitioner is that he was selected and appointed on the post of Commercial Tax Officer in the month of December, 2008. Thereafter, he was granted promotion as Assistant Commissioner Commercial Tax in the year 2014 and further promoted as Deputy Commissioner Sales Tax on 07.07.2025 and, thereafter, posted as Deputy Commissioner, Sector 2 in Agra. It is also the case of the writ petitioner that during the period from 21.09.2023 to 10.07.2025, the writ petitioner was posted as Assistant Commissioner in Sector II, Gorakhpur with additional charge of Sector III.

5. On 30.10.2025, the first respondent, namely, the Joint Secretary, State Tax Section-I, Government of UP, Lucknow, proceeded to suspend the

writ petitioner while initiating proceedings under UP Government Servant Discipline Rules 1999.

6. Questioning the suspension order, the present writ petition has been preferred.

7. Learned counsel for the writ petitioner sought to argue that the writ petitioner has not committed any misconduct so as to give a license to the disciplinary authority to place the writ petitioner under suspension. Submission is that the writ petitioner, while performing his duty as an Assistant Commissioner was vigilant as soon as adverse report regarding non-existence of the said firms, namely, M/s Tiwari Enterprises, M/s Dinesh Enterprises and M/s Himanshu Traders came to his knowledge, he issued show cause notices for suspension of the firms. Contention is that as regards the firm M/s Himanshu Traders is concerned, a show cause notice came to be issued on 05.05.2025 show causing the said firm as to why the GST registration be not cancelled and simultaneously on the same date, GST registration was suspended. Further, with regard to the firm M/s Dinesh Enterprises, a show cause notice was also issued on 09.07.2025 and the GST registration was suspended. However, with regard to M/s Tiwari Enterprises is concerned, a show cause notice came to be issued on 01.07.2024 show causing as to why GST registration be not cancelled.

8. Argument is that the writ petitioner, while acting as an Assistant Commissioner, acted diligently and with promptness and he cannot be said to be negligent in his duties or committed any misconduct, as whatever was required to be done as per the rules and the regulations or circulars, they have been done. He further submits that the writ petitioner stands promoted on the post of Deputy Commissioner in Agra and thus the said allegations cannot be pressed into service against the writ petitioner which are relatable to his posting as Assistant Commissioner, Commercial Tax in Gorakhpur. Further submission is, ultimately, the GST license of all the three firms came to be cancelled on 10.07.2025, 24.07.2025 and 24.10.2024. He further submits that penalty orders came to be issued on 30.12.2024 and 12.06.2025 against M/s Tiwari Enterprises and M/s Himanshu Enterprises and also against M/s Dinesh Enterprises

on 16.10.2025. Submission is that a First Information Report has also been lodged against these three firms. Lastly, it has been then to argue that even if the charges are taken to their face value only minor punishment can be imposed and thus in absence of possibility of imposition of major penalty of suspension order cannot be passed. Additionally, it has been argued that the writ petitioner is not shy to face the departmental proceedings but the suspension order is liable to be set aside as the same is without any basis and has no nexus with reality.

9. Countering the submissions so made by the learned counsel for the writ petitioner, Sri S.K. Pal, learned Additional Chief Standing counsel, has argued that the writ petitioner has committed misconduct and there was sufficient material available with the disciplinary authority showing the commission of the misconduct so as to place the writ petitioner under suspension, and it is for the writ petitioner to participate in the disciplinary inquiry, wherein the entire truth will surface.

10. I have heard the submissions so made across the bar and perused the record. Facts are not in issue. It is not in issue that the writ petitioner, who was working as Assistant Commissioner, Commercial Tax since 2014, was promoted to the post of Deputy Commissioner on 07.07.2025, and was transferred to Agra. It is also not in dispute that the writ petitioner was posted as Additional Commissioner from 21.09.2023, to 10.07.2025 at Sector-II, Gorakhpur, with additional charge of Sector-III.

11. A bare look of the suspension order would reveal that the allegation is that three firms, namely, M/s Tiwari Enterprises, M/s Dinesh Enterprises and M/s Himanshu Enterprises had applied for GST registration and they were accorded deemed approval, whereby GST registration was granted. An inspection was also conducted by the competent authority to verify whether the firms existed or not and adverse reports came to be submitted by the competent authority which was placed before the writ petitioner, who was working as Assistant Commissioner. For ready reference, a tabulated chart is being prepared showing the dates on which GST registration was applied, the date of deemed approval, the date of the submission of the fact-finding report, the issuance of the show-cause notice, the cancellation of the GST license, the date on which the

impugned credit (ITC) was claimed by the respective dealer:

Sl.No.	Name of the firm	Date of applying GST registration	Date of deemed approval of GST registration	Date of field verification report	Date of service of fact finding inquiry to Assistant Commissioner (petitioner)	Date of issuance of show cause notice	Date of suspension of GST registration	Date of cancellation of GST license	Date on which ITC was claimed
1.	M/s Tiwari Enterprises	18.03.2024	18.04.2024	21.06.2024	21.06.2024	01.07.2024	Nil	24.10.2024	20.09.2024 and 20.10.2024
2.	M/s Himanshu Traders	27.12.2024	12.01.2025	15.02.2025	15.02.2025	05.05.2025	05.05.2025	10.07.2025	20.03.2025
3.	M/s Dinesh Enterprises	27.12.2024	12.01.2025	15.02.2025	15.02.2025	09.07.2025	09.07.2025	24.07.2025	18.02.2025

12. A bare look of the tabulated chart as referred to above, would show that the Writ Petitioner was made aware of an adverse report on 21.06.2024, in the case of M/s Tiwari Enterprises, 15.02.2025, with respect to M/s Himanshu Traders and 15.02.2025 with respect to M/s Dinesh Enterprises. However, with respect to Tiwari Enterprises, though a show-cause notice was issued on 01.07.2024, the GST registration of the firm in question was not suspended. The registration came to be cancelled on 24.10.2024. Prior to this, the firm fraudulently claimed ITC (Input Tax Credit) on 20.09.2024 and 20.10.2024 to the tune of Rs.20,776,803/-.

13. As regards M/s Himanshu Traders, the adverse field verification report was placed before the writ petitioner on 15.02.2025. The GST license was suspended along with a show-cause notice on 05.05.2025 and cancellation was done on 10.07.2025. However, prior to that, on 20.03.2025, M/s Himanshu Traders fraudulently claimed ITC to the tune of Rs.19,438,557/-.

14. Lastly, with respect to M/s Dinesh Enterprises, the adverse verification report was placed before the writ petitioner on 15.02.2025.

The GST license was suspended along with a show-cause notice on 09.07.2025 and on 24.07.2025, the GST registration was cancelled. Prior to it, on 18.02.2025, the ITC was claimed by the non-existent firm to the tune of Rs.19,309,320/-.

15. *Prima facie*, the aforesaid sequence of events clearly goes to show that it was the negligence of the writ petitioner, who was responsible for not suspending the GST license of M/s Tiwari Enterprises despite adverse reports being available on record. With respect to M/s Himanshu Traders and M/s Dinesh Enterprises, though the adverse reports were submitted on 15.02.2025, the show-cause notices were only issued on 05.05.2025 and 09.07.2025. Even prior to the suspension orders, ITC was claimed fraudulently on 20.03.2025 and 18.02.2025.

16. In the opinion of the Court, *prima facie*, there are materials available on record to resort to the suspension of the Writ Petitioner by the appointing authority. This Court, at this stage, is not required to delve into the factual issues which are the subject matter of departmental proceedings. Furthermore, the submission that the Writ Petitioner stands promoted to the post of Deputy Commissioner and is no longer stationed in Gorakhpur is not a factor that bars or creates an obstacle for the authority not to suspend the Petitioner.

17. Accordingly, the interference in the order of suspension is declined. The writ petition is **disposed of** with the following directions:

- i. The disciplinary authority is directed to conduct and conclude the departmental proceedings against the writ petitioner within a period of three months from the date of production of the certified copy of this order.
- ii. The writ petitioner shall participate in the departmental proceedings and shall be paid a subsistence allowance as per the rules.

(Vikas Budhwar,J.)

January 9, 2026

Anurag/-