



2026:AHC:21308

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 18756 of 2025

Sharad Chandra Misra

.....Petitioner(s)

Versus

State of U.P. and Another

.....Respondent(s)

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

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Ashok Khare, learned Senior Counsel assisted by Sri Prashant Mishra, learned counsel for the writ petitioner and Sri Pramod Kumar Srivastava, learned Additional Chief Standing Counsel for the State.

2. Sri P.K. Srivastava, learned Additional CSC has made a statement at bar that he is possessed with the instructions and he is in a position to argue the matter and he does not propose to file any affidavit, 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 decided at the fresh stage.

3. The case of the writ petitioner is that he was appointed on the post of Commercial Tax Officer on 18.01.2016 and the said post stood re-designated as State Tax Officer and on 29.11.2023, the petitioner was granted promotion on the post of Assistant Commissioner, State Tax. That while the writ petitioner was posted as Assistant Commissioner, State Tax, Mobile Squad Unit-II, Varanasi. On 05.10.2025 at 2:24 A.M., the writ petitioner in discharge of his official duty, stopped a vehicle bearing Registration No. UP 78 KT 0538 for checking and verification of the papers and the goods which were under transport. According to the writ petitioner, during the course of the checking, it was found that the detail of the consignee Tax Invoice No. 440/25-26 dated 27.09.2025 and E-way Bill No. 152224067951 dated 27.09.2025 was specified as Avnish Trader 44, Khoonipur, Govind Bhawan, Ismailpur, Gorakhpur. It is also the case of the writ petitioner that the address shown on GST number was specified as BS Flour Mill Private Limited, 58 Atma Ram Malani, Ismailpur, Buxipur, Gorakhpur. The writ petitioner thereafter, issued a

Form GST MOV-01 and Form GST MOV-02 to the driver of the vehicle in the evening of 05.10.2025 and in pursuance to the physical verification conducted by the writ petitioner in Form GST MOV-02, a physical verification report stood prepared in Form GST MOV-04 bearing a date 06.10.2025. As per the writ petitioner there was no discrepancy in the physical verification of the good under transport and on 06.10.2025 itself, a seizure order was issued in Form GST MOV-06 on account of existing discrepancy in the address of the consignee. Thus, in the wake of the said facts, the petitioner issued a notice in Form GST DRC-01 to the driver proposing a penalty on account of contravention of Section 31 of the UP CGST/CGST Act, 2017 read with Section 2 (85) and Rule 46(d) and Rules 31 and 38. The vehicle driver submitted a reply on 06.10.2025 specifying that the original address of the consignee as contained in the registration certificate has been subsequently altered and a default has existed on their part in not supplying the present address to the consignee. That on the basis of the explanation so set forth and after requisite verification, it was found that the same was correct and a release order came to be passed on 06.10.2025. Based upon the said incident, the writ petitioner has been placed under suspension on 02.12.2025.

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

5. Learned counsel for the writ petitioner has sought to argue that the impugned suspension order dated 02.12.2025 cannot be sustained even for a single moment. Elaborating the said submission, it is submitted that whatever act or omission the writ petitioner performed was as per his official duty as once, the writ petitioner was entrusted the work in field then it was his duty to check and verify the vehicles containing goods which was made for transportation. According to the writ petitioner, there is no iota of evidence so as to suggest that the writ petitioner has committed any misconduct as whatever has been done was official discharge of duty in that regard. He further submits that the said allegation did not partake character of misconduct and there is no question of imposition of any major penalty, thus, it is prayed that the impugned suspension order be set aside.

6. Sri P.K. Srivatava, learned Additional CSC while countering the submission so made by the learned Senior Counsel for the writ petitioner submitted that the writ petitioner had not performed his duties as per the norms which he has to adhere to.

7. I have heard the submission so made across the bar and perused the

record.

8. Apparently, the allegations against the writ petitioner is with regard to release of the vehicle. *Prima facie*, the Court is of the opinion that the charges do not depict any misconduct and there is no question of imposition of major penalty as *prima facie*, the allegations are referable to the work entrusted to the writ petitioner which he has restored to discharge in his normal duties.

9. Accordingly, the impugned suspension order cannot be said to be legal so as to be directed to be continued. Resultantly, the writ petition is being decided in the following terms.-

(a) the order dated 02.12.2025 passed by the Special Secretary, Ssection-1, Government of U.P., Lucknow is set aside;

(b) mere setting aside of the suspension order would not preclude the respondents to conduct inquiry and to conclude the same expeditiously.

10. On a pointed query being raised to Sri P.K. Srivastava, learned Additional CSC as to whether there is any other allegation except what has been stated in the order of suspension, the answer is in negative.

11. With the aforesaid observations, the writ petition stands **disposed of**.

12. Instructions filed today are taken on record and marked as Appendix 'A'.

January 30, 2026
Rajesh

(Vikas Budhwar,J.)