



2026:AHC:32420

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 15320 of 2025

Vikas Kumar

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Himanshu Mishra, Prabhakar Awasthi
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Prabhakar Awasthi, learned Senior Counsel assisted by Sri A.C. Mishra holding brief of Sri Himanshu Mishra, learned counsel for the writ petitioner and Sri S.K. Pal, learned Additional Chief Standing Counsel for the State.

2. Since counter and rejoinder affidavits have been exchanged between the parties and they could not propose to file any further affidavits. Thus, 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 an advertisement came to be published by the respondents for recruitment on the post of Constable in Civil Police (Male/Female) in the year 2023. The writ petitioner being fully eligible and qualified in all respects applied in pursuance of the said selection by submitting an application form on 28.12.2023. The writ petitioner claims to have been selected and thereafter, post selection the writ petitioner had also tendered an affidavit/declaration. The case of the writ petitioner that in the affidavit so submitted by the writ petitioner had disclosed the factum of lodging of the Case Crime No. 12 of 2020 under sections 323, 504, 506 IPC being FIR No. 206 of 2020. The writ petitioner was sent for training and thereafter accorded appointment. It is also the case of the writ petitioner that post submission of a declaration , an investigated stood conducted and the respondents came up with the stand that the writ petitioner had not disclosed that all factum of pendency of Case Crime No. 534 of 2023 under Sections 323, 452, 427, 504, 506 IPC and Case Crime No. 251 of 2023 under Sections 498A, 323, 504, 506

IPC read with Section 3/4 of the Dowry Prohibition Act. Thereafter, on 25.09.2025, the Deputy Commissioner of Police, Head Office, Ghaziabad proceeded to cancel the candidature of the writ petitioner while directing for recovery of amount already paid to the writ petitioner.

4. Questioning the said order, the present writ petition came to be filed in which on 13.10.2025, the following orders were passed.-

"Contention of the learned counsel for the writ petitioner is that the order impugned dated 25th September, 2025 cannot be sustained for the simple reason that the same has been passed without putting to notice the writ petitioner. Reference in this regard is made to para 20 of the writ petition. It is further contended that as per page 66 of the paper book, item no.5 was relatable to a declaration that the candidate submitting the affidavit has not been convicted by or any Court established by law. According to the learned counsel for the writ petitioner, the writ petitioner had not been convicted in any of the cases as with respect to FIR no.12/ 2020, under sections 323, 504 and 506 IPC, Final Report has been submitted a copy whereof is at page no.25 of the paper book and with respect to the FIR no.534 of 2023, under sections 323, 506, 504, 452 and 427 IPC, no charge sheet has been submitted and so far as Case Crime no.251/2023, under sections 498-A, 323, 504, 506 IPC read with Section 3/4 of D.P. Act is concerned, the petitioner is not a party in the matter and it referred for mediation.

Shri Jitendra Prasad seeks time to obtain instructions that what is the criteria with respect to declaration and the format of an affidavit, which is to be submitted.

Put up this case on 28th October, 2025 as fresh."

5. Thereafter, on 13.11.2025, this Court passed the following order.-

"1. Today, when the matter has been taken up, Sri Prashant Kumar Mishra, learned Standing Counsel has produced before this Court the instructions dated 11.11.2025 of the Deputy Commissioner of Police, Headquarters while looking at page-66 of the paper-book, it appears that the only requirement to disclose regarding the fact whether candidate had been convicted or not, but learned Standing Counsel submits that there is an additional affidavit to be submitted that no case is pending.

2. Let a counter affidavit be filed by the respondents bringing on record copy of the advertisement, the requirement in the form of an affidavit and in case, additional

information is to be submitted then the circular, which authorizes the same.

3. Put up this case on 16.12.2025, as fresh."

6. A counter affidavit has been filed on behalf of respondent no. 2 to 5 sworn by Assistant Commissioner of Police (Crime), Commissionerate, Ghaziabad dated 28.01.2026 to which a rejoinder affidavit has been filed by the writ petitioner.

7. Learned counsel for the writ petitioner has sought to argue that the order impugned cannot be sustained even for a single moment. Submission is that the writ petitioner at the stage of document verification had submitted an affidavit disclosing the factum of pendency of a Criminal Case No. 12 of 2020 under Sections 323, 504, 506 IPC being FIR No. 206 of 2020 but the writ petitioner was not aware about the pendency of two other criminal cases being Case Crime No. 534 of 2023 under Sections 323, 452, 427, 504, 506 IPC and Case Crime No. 251 of 2023 under Sections 498A, 323, 504, 506 IPC read with Section 3/4 of the DP Act. He further submits that merely because two criminal cases stood lodged against the writ petitioner and pendency and non disclosure of the same could not be fatal particularly when the information sought by way of the affidavit while making disclosure is that the writ petitioner or the candidate as the case may be has not been convicted by any court established by law. Contention is that the authorities have to consider the nature and the extent of disclosure and the information so disclosed and once a particular information is not being sought then non disclosure of the said particular information which was not required at all would not be a ground to denude the claim.

8. Sri S.K. Pal, learned Additional CSC on the basis of the instructions submits that though the declaration which ought to have been made by the writ petitioner was that the writ petitioner has not been convicted by any court established by law but in the present facts the writ petitioner had disclosed the factum of lodging of one criminal case and had not disclosed the fact that there were two criminal cases pending against the writ petitioner, thus, proprietary demanded that the writ petitioner ought to have disclosed the pendency of two cases in that regard.

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

record.

10. Apparently, the writ petitioner had applied in pursuance of a recruitment drive for the post of Constables in the year 2023. The parties are in agreement that the writ petitioner at the stage of submission of affidavits had disclosed the pendency of the Case Crime No. 12 of 2020 under Sections 323, 504, 506 IPC being FIR No. 206 of 2020. The declaration which ought to be made by the candidate is extracted hereinbelow.-

"05 में घोषणा करता/करती हूँ की मुझे विधि द्वारा स्थापित किसी भी न्यायालय के द्वारा कभी भी दोषी नहीं ठहराया गया है। || *DECLARE THAT I HAVE NEVER BEEN CONVICTED BY ANY COURT ESTABLISHED BY LAW.*"

11. The affidavit submitted by the writ petitioner is at page 68 which read as under.-

"2. यह कि मेरे विरुद्ध आपराधिक मुकदमा / मामला मेरी जानकारी में पंजीकृत हुआ था जिसका एफ०आई०आर० नं०-206/2020 अंधारा-323,504,506 पंजीकृत थी जिसका निस्तारण हो चुका हैं और अब कोई पुलिस विवेचना (*INVESTIGATION*) लम्बित नहीं और न ही मेरे विरुद्ध कोई आपराधिक अभियोग न्यायालय में विचाराधीन है।

3. कि मुझे किसी आपराधिक अभियोग में किसी सक्षम / दण्डिक न्यायालय द्वारा सिद्धि दोष (*CONVICTION*) नहीं किया गया है।

6. यह कि मुझे कभी भी किसी आपराधिक मामले में गिरफ्तार नहीं किया गया है।

7. यह कि कभी आपराधिक मामले में पुलिस ने चालान नहीं किया गया है।"

12. The order impugned negates the claim of the writ petitioner while dispensing with the services on 25.09.2025 which reads as under.-

"उत्तर प्रदेश पुलिस आरक्षी तथा मुख्य आरक्षी सेवा नियमावली-2015 एवं प्रथम संशोधन नियमावली-2017 के अनुसार पुलिस महानिदेशक, उ०प्र०, लखनऊ द्वारा अधिवाचित रिक्तियों के सापेक्ष घोषित चयन परिणाम के अनुसार चयनित अभ्यर्थियों को अपर पुलिस अधीक्षक, स्थापना, मुख्यालय पुलिस महानिदेशक, उ०प्र०, लखनऊ के पत्रांक डीजी-चार-स्था० (आरक्षी भर्ती 2023) 2025/1990, विनोद 30-05-2025 के द्वारा अभ्यर्थियों को जे०टी०सी० जनपद आवंटित कर नियुक्ति पत्र निर्गत किये जाने हेतु निर्देशित किया गया।

2-उक्त के परिपेक्ष्य में अभ्यर्थी अनुक्रमांक 2120662 विकास कुमार पुत्र विशम्भर सिंह निवासी कौलखवा

राजपुर चुंगी थाना ताजगंज जनपद आगरा (पिन कोड न० 282001) की कमिश्नर आगरा से जे०टी०सी० प्रशिक्षण हेतु पत्रावली प्राप्त हुई जिसमें अभ्यर्थी के विरुद्ध मु०अ०सं० 12/2020 धारा 323/504/506 भादवि थाना ताजगंज कमिश्नरेट आगरा पर पंजीकृत पाये जाने के फलस्वरूप नियमानुसार जिलाधिकारी जनपद आगरा से सुस्पष्ट अभिमत / संस्तुति प्राप्त की गयी, जिसमें जिलाधिकारी आगरा द्वारा अपनी आख्या दिनांक 24.06.2025 मे उक्त अभ्यर्थी विकास कुमार को आरक्षी पद पर भर्ती के लिए उपर्युक्त होने के सम्बन्ध में अवगत कराया गया जिसके आधार पर उक्त अभ्यर्थी को आरक्षी पर नियुक्त हेतु उपयुक्त मानते हुए इस कार्यालय द्वारा अभ्यर्थी उपरोक्ति को रिक्रूट आरक्षी के पद पर दिनांक 28.06.2025 को अस्थाई रूप से कमिश्नरेट गाजियाबाद में नियुक्ति प्रदान की गयी।

3- उल्लेखनीय है कि शिल्पी राजपूत पुत्री छोटेलाल निवासी अमरपुरा बिचपुरी रोड, थाना जगदीशपुरा आगरा द्वारा दिनांक 03.06.2025 को शिकायती प्रार्थना पत्र श्रीमान पुलिस भर्ती आयोग महोदय, लखनऊ उ०प्र० को प्रेषित किया गया, जिसमें उक्त अभ्यर्थी के विरुद्ध थाना जगदीशपुरा आगरा पर मु०अ०सं० 251/2023 धारा 498ए, 323,504,506 भादवि व 3/4 दहेज प्रतिषेध अधि० पंजीकृत होने तथा अभ्यर्थी द्वारा अपने शपथ पत्र में उक्त अभियोग को छुपाये जाने के सम्बन्ध में अंकित किया गया। जिसके बाद उक्त शिकायती प्रार्थना के सम्बन्ध में जांच श्री आनन्द कुमार पाण्डेय, अपर पुलिस उपायुक्त/सहायक पुलिस आयुक्त, कार्यालय, आगरा द्वारा की गयी तो उनके द्वारा अपनी जांच आख्या में पाया कि अभ्यर्थी विकास उपरोक्त के विरुद्ध थाना ताजगंज कमि० आगरा पर मु०अ०सं० 12/2020 धारा 323,504,506 भादवि एवं मु०अ०सं० 534/2023 धारा 323/452/427/504/506 भादवि, जिसमें अभ्यर्थी विकास उपरोक्त की नामजदगी गलत पाये जाने पर विवेचना से नाम पृथक किया गया है एवं थाना जगदीशपुरा आगरा पर मु०अ०सं० 251/2023 धारा 498ए, 323,504,506 भादवि व 3/4 दहेज प्रतिषेध अधि० पंजीकृत है। जिसमें विकास उपरोक्त के विरुद्ध दिनांक 11.07.2023 को आरोप पत्र मा० न्यायालय में प्रेषित किया गया है, जो कि माननीय न्यायालय आगरा में विचाराधीन है, किन्तु अभ्यर्थी विकास द्वारा दिये गये शपथ पत्र में मात्र मु०अ०सं० 12/2020 उपरोक्त का ही उल्लेख किया गया एवं अन्य दो अभियोगों का उल्लेख स्वयं द्वारा दिये गये शपथ में उल्लेख नहीं किया। इस प्रकार चयनित अभ्यर्थी विकास कुमार द्वारा अन्य अभियोगों को जानबूझकर छिपाया गया है, जिसके लिये यह दोषी है। उक्त अभ्यर्थी द्वारा दिये गये शपथ पत्र के बिन्दु संख्या: 14 में अंकित है कि यदि शपथ पत्र में अंकित तथ्य भविष्य में कभी भी गलत पाये जाते हैं तो मुझे पुलिस आरक्षी के कोर्स / सेवा से तुरन्त पृथक कर दिया जाये एवं मेरे विरुद्ध आवश्यक कानूनी प्रक्रिया अमल में लायी जाये।

4-पुलिस उपमहानिरीक्षक, स्थापना मुख्यालय पुलिस महानिदेशक, उ०प्र० लखनऊ के पत्र संख्या:दस-393/2002 (8) दिनांक 30.06.2025 के द्वारा शासनादेश संख्या: 4694/1-B-32-1947 दिनांक 29-04-1958 एवं विशेष अनुज्ञा याचिका संख्या: 20525/2011 अवतार सिंह बनाम यूनियन ऑफ इण्डिया व अन्य में दिनांक 21-07-2016 को मा० सर्वोच्च न्यायालय द्वारा पारित आदेश में उल्लिखित है कि:-

"यदि अभ्यर्थी के विरुद्ध आपराधिक मामले पंजीकृत हुए हैं, अथवा ऐसे पंजीकृत मामले विवेचना से उनके विरुद्ध आरोप पत्र प्रेषित होकर विचाराधीन न्यायालय है या किसी अपराधिक मामले में धारा-168 दण्ड प्रक्रिया

संहिता के अन्तर्गत रिहा हुए हैं या भारत सरकार / राज्य सरकार अथवा सार्वजनिक उद्यम व संस्थान से सेवा से विमुक्त किये गये हैं अथवा नैतिक अधमता के किसी अपराध के लिए दोषसिद्ध हुए हैं या छिपाया गया है अथवा गुमराह किया गया है तो ऐसा करने के लिए अभ्यर्थी को नियमानुसार अनुपयुक्त घोषित किया जायेगा और उसका अभ्यर्थन समाप्त कर दिया जायेगा, जिस पर अभ्यर्थी का कोई दाया नहीं होगा।”

5-अतः अभ्यर्थी अनुक्रमांक-2120662 विकास कुमार पुत्र विशम्भर सिंह निवासी कौलक्या, राजपुर चुंगी थाना ताजगंज जनपद आगरा (पिन कोड नं० 282001) द्वारा स्वयं के विरुद्ध थाना ताजगंज कमि० आगरा पर मु०अ०सं० 534/2023 धारा 323/452/427/504/506 भादवि एवं थाना जगदीशपुरा आगरा पर मु०अ०सं० 251/2023 थाना 498ए, 323,504,506 भादवि व 3/4 दहेज प्रतिषेध अधि० पंजीकृत होने के बावजूद भी दिये गये शपथ पत्र में मात्र मु०अ०सं० 12/2020 उपरोक्त का ही उल्लेख किया गया, शेष दो अभियोगों को शपथ पत्र में जानबूझकर छिपाया गया और गुमराह किया गया, जिसके कारण श्री आनन्द कुमार पाण्डेय, अपर पुलिस उपायुक्त/सहायक पुलिस आयुक्त, कार्यालय, आगरा द्वारा की गयी जांच व शासनादेश संख्या: 4694/II-B-32-1947 दिनांक 29-04-1958 एवं विशेष अनुज्ञा याचिका संख्या: 20525/2011 अवतार सिंह बनाम यूनियन ऑफ इण्डिया व अन्य में दिनांक 21-07-2018 को मा० सर्वोच्च न्यायालय द्वारा पारित आदेश में निहित व्यवस्थानुसार अभ्यर्थी अनुक्रमांक-2120662 विकास कुमार पुत्र विशम्भर सिंह निवासी कौलक्या, राजपुर चुंगी थाना ताजगंज जनपद आगरा (पिन कोड नं० 282001) का चयन अभ्यर्थन निरस्त किया जाता है. साथ ही अन्यथी विकास कुमार उपरोक्त पुलिस अधीक्षक, स्थापना, उ०प्र० लखनऊ के पत्रसंख्या प्रशिक्षण (त्याग पत्र कटौती)-2025 दिनांक 29.08.2025 के कम में भर्ती दिनांक से आज दिनांक तक वेतन /वर्दी भत्ता की धनराशि रुपये 74,572/- व 90 दिन के प्रशिक्षण पर व्यय प्राप्त धनराशि रुपये 77,670/-फूल धनराशि रुपये 1,52,242 /- राजकीय कोष पुलिस कार्यालय गाजियाबाद में जमा करें, प्रतिसार निरीक्षक उद्यत धनराशि नियमानुसार राजकोष में जमा कराने की कार्यवाही सुनिश्चित करें तथा अन्य आवश्यक कार्यवाही करें।”

13. A bare look of the order impugned would go to show that the consideration which weighed with the respondents in negating the claim of the writ petitioner while dispensing with the services is that the writ petitioner has not disclosed the factum of the pendency of two criminal cases being Case Crime No. 534 of 2023 under Sections 323, 452, 427, 504, 506 IPC and Case Crime No. 251 of 2023 under Sections 498A, 323, 504, 506 IPC read with Section 3/4 of the DP Act. The declaration itself depicts that a candidate had to disclose the information regarding the fact whether he had been convicted by a court established by law. On a pointed query being raised to the learned counsel for the parties whether the writ petitioner stands convicted in the two cases which have not been disclosed or not, the answer is that only criminal cases are pending. Page 68 of the paper book shows that an affidavit came to be submitted by the

writ petitioner wherein the writ petitioner in para 3 has disclosed the factum of lodging of the FIR No. 206 of 2020 under Sections 323, 504, 506 in which final report came to be submitted and accepted by the Court exonerating the writ petitioner. Further with regard to Case Crime No. 534 under Sections 452, 323, 504, 506, 427 is concerned, it is asserted in para 5 that charge sheet had not been submitted against the writ petitioner and with regard to Case Crime No. 251 of 2023 under Sections 498A, 294, 323, 504, 506 is concerned, the matter stood referred for mediation. Since, it was a matrimonial dispute and no charge sheet had been filed against the writ petitioner. As a matter of fact in **Avtar Singh Vs. Union of India : (2016) 8 SCC 471** the Hon'ble Apex Court had summarized the law on the subject with regard to the import and the impact and the effect of non disclosure. The said exercise is thoroughly lacking.

14. Recently in **Pawan Kumar Vs. Union of India : 2026 INSC 156** followed in **Ravindra Kumar Vs. State of U.P. : (2024) 5 SCC 264** , the Government Order dated 21.05.1958 came to be considered whereby mere conviction would not be an ipso facto a ground to denude as the appointing authority is to consider the said aspect of the matter bearing in mind the import and the impact and the effect of non disclosure in that regard.

15. Apart from the same, additional aspect of the matter which needs to be noticed is the fact that in the order impugned, the District Magistrate has issued a character certificate on 24.06.2025. Since the aforesaid aspect of the matter have not been considered, thus, in the opinion of the Court, the matter needs to be re-visited.

16. Accordingly, the writ petition is being decided in the following terms.-

(a) the order dated 25.09.2025 passed by Deputy Commissioner of Police, Head Office, Ghaziabad is set aside;

(b) matter stands remitted back to the authority to pass a fresh order;

(c) the passing of the order today may not be construed to accord liberty to the writ petitioner to be appointed and reinstated as the appointment/reinstatement of the writ petitioner shall be subject to the final orders to be passed post remand.

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

18. Needless to point out that the authority shall advert to the crucial aspect as to what was the information which was required from the writ petitioner and the information so furnished by him. The entire exercise is to be conducted and concluded within a period of three months from the date of production of certified copy of the order.

(Vikas Budhwar,J.)

February 12, 2026

Rajesh