



2026:AHC:42081

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 2540 of 2026

Sanjay Kumar

.....Petitioner(s)

Versus

The State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Arya Gautam, Atipriya Gautam, Jay Vishwanath Pandey, Sr. Advocate
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Vijay Gautam, learned Senior Advocate assisted by Sri Divya Jyoti holding brief of Ms. Arya Gautam, learned counsel for the writ petitioner and Sri Prashant Kumar Mishra, 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. 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 Police Constable on 02.12.2015, however, on an allegation that the writ petitioner was involved with Constable Sanjay Kumar in suspicious activity and not performing the duties as per the conduct and demanding illegal gratification from another carrier vehicle post video being viral on the social media, the writ petitioner came to be suspended in view of the provisions under Rule 17(1)(a) of the U.P. Police Officer of Subordinate Ranks (Punishment and Appeal) Rules, 1991 on 03.12.2025.

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

5. Learned counsel for the writ petitioner submits that though the writ petitioner has been suspended in contemplation of an enquiry in exercise of the powers conferred under Rule 17 (1)(a) of the Uttar Pradesh Police Officers of Sub-ordinate Rank (Punishment and Appeal) Rules, 1991 on 03.12.2025, but now a preliminary inquiry is being directed to be ordered against the writ petitioner by virtue of a communication dated 04.12.2025. Learned counsel for the writ petitioner has submitted that the order

placing the writ petitioner under suspension cannot be sustained particularly when a preliminary inquiry is to be conducted followed by the suspension order and the things cannot be conversed, that first, suspension order is to be passed and then preliminary inquiry is to be conducted. 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.

6. 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 04.12.2025, the preliminary inquiry post-suspension has been ordered.

7. 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 conduction of preliminary enquiry if required at all. Thus, the judgment in the case of Sachchidanand Nath Tripathi (supra) the impugned order cannot be sustained.

8. Accordingly, the writ petition is disposed of and the order dated 03.12.2025 passed by Respondent no.3, Senior Superintendent of Police, Aligarh 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.

February 20, 2026
Rajesh

(Vikas Budhwar,J.)