

Court No. - 3

Case :- WRIT - A No. - 25587 of 2017

Petitioner :- Devi Dayal Verma

Respondent :- State Of U.P. And 2 Ors.

Counsel for Petitioner :- Arun Kumar Tiwari, S.K. Varma

Counsel for Respondent :- C.S.C., Shivam Yadav

Hon'ble Krishna Murari, J.

Hon'ble Ravindra Nath Kakkar, J.

Heard Shri S.K. Verma, learned Senior Counsel assisted by Shri Arun Kumar Tiwari for the petitioner and Shri Shivam Yadav appearing for respondent no. 3.

Facts, in brief, relevant for the dispute raised in this petition are as under.

Petitioner joined as Officer on Special Duty (O.S.D.), Zone-I in the Kanpur Development Authority, Kanpur on 07.12.2016. It was a part of his duty to supervise all constructions being raised within his zone and to ensure that no unauthorised constructions are raised. One Mahtab Alam was raising a building on plot nos. 628, 629, 630, 631, 646, 1054 and 1055 situate in village Gajjupurwa Chandari, P.S. Jajmau, District Kanpur Nagar without any permission from the Kanpur Development Authority. The said construction collapsed on 01.02.2017 resulting in loss of a number of lives. A FIR of the incident was lodged with the police station on 01.02.2017. An inquiry was also set up by the Kanpur Development Authority to fix the responsibility of the officers of the authority. Vide impugned order dated 21.04.2017, the petitioner was placed under suspension in contemplation of a disciplinary authority against him in respect of the collapse of the building, which was being raised in the zone under him without lawful permission from the Development authority, which resulted in loss of lives of many persons.

Learned counsel for the petitioner contends that a preliminary inquiry was got conducted by a committee consisted of Mukhya Nagar Niyojak, Secretary and Chief Engineer, Kanpur Development Authority, which, in its report fastened the responsibility of the collapse of the building on some private builders, engineers and contractors and the petitioner was not found guilty in respect thereof. Based upon the aforesaid preliminary inquiry report, it is vehemently contended that since no involvement of the petitioner was found, as such, neither any disciplinary inquiry is liable to be conducted against him nor he could be placed under suspension. It is also submitted that the allegations against the petitioner are not so serious so as to award a major penalty and, thus, also the suspension order is totally unjustified.

We have considered the argument advanced by the learned counsel for the petitioner and perused the record.

It is undisputed that petitioner, at the relevant time, was working as Officer on Special Duty in Zone I and it was a part of his duty to supervise all the constructions in his zone and to ensure that the same were being raised after due permission of the Development Authority. It was also a part of his duty to see that no unauthorised constructions are raised and, in case, there exists any such constructions, the same were to be demolished. It is also not in dispute that illegal construction was being raised by one Mahtab Alam within the zone of the petitioner without any sanction from the Development Authority, which collapsed resulting in loss of certain lives.

Petitioner, in his capacity as Officer on Special Duty, was under an obligation to supervise the constructions being raised in his zone. The Development Authority, prima facie, found that the petitioner has failed to discharge his duties for which a disciplinary inquiry has been directed to be initiated against him and during the pendency of the inquiry, he has been placed under suspension.

We see no reason as to how the petitioner can escape from his responsibility on the basis of a preliminary inquiry conducted for finding out the cause for collapse of the building. Thus, we do not find any illegality in the impugned order placing the petitioner under suspension during the pendency of the disciplinary inquiry and the same does not require any interference.

Writ petition, accordingly, fails and stands dismissed.

Order Date :- 31.5.2017

VKS