

**Court No. - 40**

**Case :-** WRIT - C No. - 30430 of 2024

**Petitioner :-** Raj Pal Singh Dishwar

**Respondent :-** State Of Up And 3 Others

**Counsel for Petitioner :-** Anil Kumar, Arvind Srivastava

**Counsel for Respondent :-** C.S.C., Shashi Kant Pandey

**Hon'ble Shekhar B. Saraf, J.**

**Hon'ble Kshitij Shailendra, J.**

1. Heard Sri Arvind Srivastava, learned counsel appearing on behalf of the petitioner, Sri Mukul Tripathi, learned Standing Counsel appearing on behalf of the State respondents and Sri Shashi Kant Pandey, learned counsel appearing on behalf of the complainant-respondent No.4.

2. The petitioner, who was, prior to passing of the order impugned, working as A.D.G.C. (Criminal) in district Hathras, has challenged the order impugned dated May 10, 2024, whereby the Joint Secretary, Law Department of the State Government has communicated the District Magistrate, Hathras about the approval granted by the State Government regarding immediate cessation of attachment of the petitioner as A.D.G.C. (Criminal).

3. Learned counsel for the petitioner submits that the basis of the order impugned is a report dated April 18, 2024, sent by the District Magistrate, Hathras to the Special Secretary, Law Department annexing therewith an inquiry report dated January 3, 2024 of a two member committee comprising of Sub Divisional Magistrate and Circle Officer. Submission is that the entire contents of the inquiry report go to show that the video, which was allegedly displayed before the inquiry committee, did not mention

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the source as to who had recorded the same and how did the inquiry committee get access to it. It is urged that the order impugned has been passed mentioning a wrong observation that the petitioner had made some objectionable comments against the 'Father of Nation' (Mahatma Gandhi).

4. Learned Standing Counsel appearing on behalf of the State respondent submits that the entire action is based upon the inquiry report referred to above, which was forwarded by the District Magistrate to the State Government. He very fairly submits that neither petitioner was provided an opportunity to make his defence before the inquiry committee nor was the authenticity of video checked at any point of time.

5. Learned counsel for the respondent No.4 submits that as of now a new panel of A.D.G.C. (Criminal) has been approved and the petitioner has been ousted.

6. Having heard learned counsel for the parties and having examined the material placed before us, we are of the view that the entire action against the petitioner appears to be full of malice and it is apparent that in order to oust the petitioner from the panel, some vague material, authenticity whereof was not established even in the inquiry conducted as noted in the inquiry report, has been utilised to the detriment of the interest of the petitioner.

7. There being no other material, which might justify taking of action against the petitioner, we are of the view that the State Government was not justified in passing the order impugned, merely placing reliance upon a report forwarded by the District Magistrate accompanied by two members inquiry committee report, which itself substantially reads in favour of the petitioner.

8. Consequently, we are satisfied that the impugned order cannot

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be sustained.

9. The writ petition succeeds and is **allowed**.

10. The impugned order dated May 10, 2024 passed by the Joint Secretary, Law Department is hereby set aside.

11. The respondents are directed to reinstate the petitioner on the post of A.D.G.C. (Criminal), Hathras within a period of three weeks from today.

**Order Date :- 20.1.2025**

Kuldeep

(Kshitij Shailendra, J.)      (Shekhar B. Saraf, J.)