

**Court No. - 6**

**Case :-** WRIT - A No. - 221 of 2025

**Petitioner :-** Krishna Kumar Singh

**Respondent :-** State Of U.P. Thru. Prin. Secy. Law And Legal  
Remembrance Lko. And 2 Others

**Counsel for Petitioner :-** In Person

**Counsel for Respondent :-** C.S.C.

**Hon'ble Alok Mathur,J.**

1. Heard Sri Krishna Kumar Singh, the petitioner in person and the Standing counsel on behalf of the respondents.
2. The short counter affidavit filed today in the Court is taken on record.
3. The petitioner is a registered/recognized Advocate of Lucknow Bench of High Court, Allahabad practicing in this Court since 1998. He was engaged/empaneled by the State to represent State of U.P. on 25.5.2023 and his contract was terminated vide order 5.11.2024 issued by Under Secretary, State of U.P.
4. The facts leading to the present writ petition are that the petitioner in capacity of Standing counsel was assigned the duty in Court No.5 where Writ C No.8967 of 2024 (*Najakat Ali Vs. Union of India through its Secretary, Ministry of Commerce and Industry and five others*) was listed. In the said writ petition the petitioner had made a prayer for a direction to the District Magistrate, Hardoi to renew the explosives license No.138 which was pending since 29th February, 2024. In the said writ petition letters had already been issued to the various authorities to submit complete instructions in the matter before the Court fixing next date i.e. 17.10.2024 but no instructions were received by the office of Chief Standing Counsel. It is further stated that when the case was listed on 21.10.2024 no one had contacted the office of Chief Standing Counsel nor submitted written instructions and accordingly on the said date the petitioner in his capacity as Standing counsel had also tried to contact District Magistrate, Hardoi on mobile as well as landline number but could not get any response. The petitioner duly informed the Court about the fact that he had tried to contact District Magistrate, Hardoi but he could not elicit any response from him. Considering that his phone was switched off and the said fact being informed to the Court, orders were passed where this Court had observed that the matters pertaining to renewal of explosives license pending since

February, 2024 and substantially long length of time i.e about 8 months have lapsed. Where the orders have been passed to the following effect:-

*"5. Considering that the matter pertaining to renewal of explosive licence is pending since February, 2024 and a substantial period of time, i.e. almost eight months, having lapsed since then, this Court had required the learned Standing counsel to seek instructions from the District Magistrate, District Hardoi as to why the said application for renewal has not been decided, in the morning session.*

*6. At 02:30 P.M., learned Standing counsel informs that upon he calling up the District Magistrate on his mobile number, the same has found to be switched off.*

*7. It is indeed a sad state of affairs that the head of the District is functioning with his mobile phone being switched off. It is not understood under what circumstances the said mobile phone has been switched off with the result that in case of any emergency as to how the District Magistrate, heading the District, is to be contacted.*

*8. Considering the aforesaid and there being no reasonable or plausible explanation for the aforesaid conduct on the part of the District Magistrate apart from the fact that no reasons emerge as to why the explosive licence, which has been given for renewal in the month of February, 2024, has not been renewed till date, and in view of the impending festival season approaching, despite various festivals having already passed in which the petitioner in the capacity of being an erstwhile explosive licence holder could have sustained his livelihood, this Court requires the respondent No.3 i.e. District Magistrate, District Hardoi to remain present before this Court along with relevant records to assist the Court on the point that (a) as to why the explosive licence of the petitioner has not been renewed despite it having been applied in February, 2024 and (b) in what circumstances, the District Magistrate could not be contacted despite the best efforts being made by the learned Standing counsel. List tomorrow i.e. on 22.10.2024 at 10:15 A.M.*

*9. List this case tomorrow i.e. on 22.10.2024 at 10:15 A.M.*

*10. The learned Standing counsel shall inform about this order to the respondent No.2 i.e. Principal Secretary, Home, Civil Secretariat U.P., Lucknow today itself and in turn, the Principal Secretary, Home shall inform it to the District Magistrate, Hardoi about this order and to remain present before this Court tomorrow i.e. on 22.10.2024 at 10:15 A.M."*

5. When the case was listed on the next date i.e. 22.10.2024 the Court was informed that the issue of grant of license has already been adjudicated vide order dated 15.4.2024 and

accordingly the said writ petition was disposed of as infructuous.

6. The fact that the District Magistrate had to appear before this Court on 22.10.2024 on the strength of the information given by the Standing counsel, it seems that certain complaint was made against the petitioner to the Legal Remembrancer and other higher authorities of the State Government subsequent to which a clarification was sought from the office of Chief Standing counsel with regard to the order passed by this Court on 21.10.2024 in Writ C No.8967 of 2024 . The said letter was forwarded to the petitioner as he had conducted the case on behalf of the State on the said date and he submitted his reply on 25.10.2024 clearly stating the chain of events which had occurred in this reply. He had stated that letter was already sent to District Magistrate, Hardoi on 16.10.2024 seeking instructions in the matter but no instructions were received and on the oral directions of this Court the petitioner had called District Magistrate, Hardoi on his mobile number at 2.15 p.m. but the said phone was switched off and accordingly, this fact was informed to this Court on 5.11.2024. The impugned order was passed cancelling the engagement/attachment/empanelment of the petitioner.

7. This Court had taken cognizance of the aforesaid facts and sought response from the respondents. In the counter affidavit which has been filed today, the entire chain of events as discussed herein-above has again been narrated apart from which it has been stated that the State Government has taken cognizance of the report of the District Magistrate and terminated the contract of the petitioner.

8. Along with the counter affidavit the letters of the District Magistrate forwarded to the Legal Remembrancer has also been annexed dated 23.10.2024 and the only aspect pertaining to his mobile number being switches off has been discussed.

9. In support of his submissions, District Magistrate has annexed copy of the call details from 11.55 am. till 8.07 pm. wherein he has received number of calls and even some missed calls were also recorded on his mobile number. The said call details have been annexed only to indicate that the petitioner had fairly stated that he had called the District Magistrate between 2.15 and 2.30 p.m. on 21.10.2024. The State authorities duly accepted the contention of the District Magistrate without even examining the contents of his letter and without affording any opportunity of hearing to the petitioner have cancelled his engagement.

10. In support of his submission, learned counsel for the petitioner has relied upon the judgment of a Division Bench judgment of this Court in the case of **Raj Pal Singh Dishwar VS. State of U.P. and others** passed in Writ C No.30430 of 2024 where in similar circumstances this Court had set aside the order of disengagement by observing as follow:-

*"..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 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."*

11. He has further relief upon the judgment of Supreme Court in the case of **State of Punjab and another Vs. Brijeshwar Singh Chahal and another** passed in Civil Appeal No.3194 of 2016 wherein following has been observed:-

*"30. In State of U.P. and Ors. etc. v. U.P. State Law Officers Association and Ors. etc. (1994) 2 SCC 204, also law officers were removed by the State Government, aggrieved whereof, the affected officers approached the High Court contending, inter alia, that their removal was against the principles of natural justice and that they could be removed from their offices only for valid reasons. The High Court agreed with that contention, allowed the petition and quashed the orders of removal. The State assailed that order before this Court in which this Court examined the issue from three different dimensions viz., (i) the nature of the legal profession; (ii) the interest of public; and (iii) the modes of appointment and removal.*

*31. While dealing with the nature of the legal profession, this*

*Court observed that legal profession was essentially a service-oriented profession and that the relationship between the lawyer and his client is one of trust and confidence. As a responsible officer of the court and an important adjunct of the administration of justice, the lawyer also owes a duty to the court as well as to the opposite side. He has to be fair to ensure that justice is done. He demeans himself if he acts merely as a mouthpiece of his client. Having said that, this Court noted the changed profile of the legal profession because of the expansion of public sector activities necessitating maintenance of a common panel of lawyers, some of whom are in full-time employment of the government or public institutions as their law officers."*

12. With regard to maintainability of the writ petition in view of the fact that it is a contract between the State and the officers, he has relied upon the judgment of Supreme Court in the case of ***Kumari Shrilekha Vidyarthi and others Vs. State of U.P. and others, (1991) 1 Supreme Court Cases 212*** to indicate that even in the sphere of contract Article 14 will have to be followed by the respondents and their action can always be judged on the ground of being fair and reasonable and accordingly submits that the present writ petition on this ground will be maintainable.

13. Learned Standing counsel, on the other hand, has opposed the writ petition. He submits that the aspect pertaining to engagement or disengagement of a Law Officer is within the realm of discretion of the State Government and accordingly interference of the Writ Court under Article 226 of the Constitution would be extremely limited and would not extend to reviewing the ground on which the disengagement has been made. He has further submitted that there were cogent reasons existing on record according to which as per the complaint of the District Magistrate the petitioner had not correctly informed the facts to this Court leading to embarrassment of a senior officials of the State Government consequent to which he was summoned to the Court and in support of the said facts the call detains have been annexed along with the report indicating that the petitioner had never made a call to the District Magistrate and only informed the Court about the said telephone being switched off between 2.15 p.m. to 2.30 p.m. on the said date and accordingly he has supported the impugned order and prayed for dismissal of the writ petition.

14. This Court has heard the rival contentions and perused the record.

15. The basic facts in the case are not disputed in as much as the

petitioner was engaged by the State of U.P. and appointed as Standing counsel to represent them before High Court on 25.5.2023. It is an incident which occurred during hearing of this Court on 21.10.2024 which is main fact of the present case. The case which was listed before this Court was *Najakat Ali Vs. Union of India through its Secretary Ministry of Commerce and Industry and 5 others* in Writ C No.8967 of 2024 where the issue pertaining to renewal of explosives license to the petitioner despite expiry of eight months the explosive license had not been renewed. It was further the case of the petitioner that despite letters having been sent by the office of Chief Standing counsel to the office of District Magistrate, Hardoi no instructions have been sent and consequently on the said date when the case came up before this Court, learned Standing counsel could not inform this Court about the instructions they were directed to receive the same. It is on the aforesaid facts that this Court had directed learned Standing counsel to contact District Magistrate, personally and receive instructions. It is on the direction of this Court that the petitioner had made a phone call to the District Magistrate and according to him the phone was switched which fact was duly informed to this Court. The said facts are duly recorded in the order of this Court dated 21.10.2024 where the case was directed to be list on the next i.e. 22.10.2024 and District Magistrate Hardoi was directed to appear in person. The order dated 22.10.2024 is already on record having been filed by learned Standing counsel according to which order for renewal had already been passed and this fact was informed by the District Magistrate to this Court. The petitioner was dismissed as infructuous.

16. It seems that the order dated 21.10.2024 had caused embarrassment to District Magistrate where according to him his phone had been switched off but he had received number of calls on the said date, the details of which have been annexed along with his complaint to the Legal Remembrance.

17. One fact which this Court is inclined to accept which has been submitted by learned counsel for the petitioner is that the call details are only with regard to incoming, outgoing and missed calls. The very fact that call details made by the petitioner are not there in the list submitted by the District Magistrate, Hardoi because any call made to a phone which is not recorded by the operator and at best extra services is provided indicating the extreme urgency about the miss calls which is sent through SMS. He submits that the call details issued by the operator did not include the calls which are made when the phone is switched off.

18. No counter argument was forth coming from the

respondents with regard to argument made by the petitioner that when a call is made if the phone is switched off it would not reflect the call details supplied by the operator. Accordingly, we find substance in the arguments of the petitioner that the very fact that the petitioner had made a call to the District Magistrate, Hardoi on 21.10.2024 between 2.15 to 2.30 p.m. would not be reflected in the said call details.

19. Apart from the issue which requires more serious consideration is the fact that it was the order of this Court passed on 25.10.2024 and 22.10.2024 which is the basis for action against the petitioner. Undoubtedly, the information regarding communication of the sentiments and order of this Court was to be communicated by the petitioner to the District Magistrate, Hardoi but merely because of certain reasons the Court found it necessary for appearance of the District Magistrate Hardoi on 22.10.2024 cannot be a ground in itself to cause such annoyance to proceed to cancel the empanelment of a Standing counsel

20. We also do not lose sight of fact that apart from being a Standing counsel for State of U.P. they are also the officers of the Court and are under a mandate to own obligations and duties towards this Court also. Merely because at that point of time the phone was not picked up by the District Magistrate for whatsoever reasons or that his phone was switched off and this Court was dutifully informed cannot be a ground for annoyance of the District Magistrate, Hardoi and in any view of the matter there was no reason forthcoming for his not discharging his duties for a period of 8 months by not renewing the license which was the subject matter of the said writ petition.

21. The petitioner being a responsible officer of the Court has fulfilled his duty by sending letters to the District Magistrate multiple times, to which no reply has been sent. The calls were made in pursuance to the oral directions of the Court to receive instructions in absence of any formal reply. Termination of petitioner's contract due to inability to connect through telephone by vague reasons renders the enquiry report malafide.

22. For the reasons aforesaid, we find that the impugned order is malafide apart from the fact that no opportunity of hearing has been given to the petitioner despite the fact that the respondents had issued a show cause notice or a semblance of the show cause notice where neither any action was proposed or recorded nor any incident stated therein. The entire action against the petitioner is illegal and arbitrary and deserves to be set aside.

23. Accordingly, the writ petition is **allowed**. The impugned order dated 5.11.2024 passed by Special Secretary and Additional Legal Remembrancer (Nyay Vibhag), Anubhag-3, Government of U.P., Lucknow, as contained in Annexure No.8 to the writ petition, is set aside.

24. The respondents are directed to reinstate the petitioner as Standing counsel within three weeks from today.

**(Alok Mathur, J.)**

**Order Date :- 11.3.2025**  
RKM.