



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 3479 of 2026

Raj Shekhar Upadhyay

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Devansh Misra
Counsel for Respondent(s)	:	C.S.C.

Court No. - 6

HON'BLE PRAKASH PADIA, J.

1. Pursuant to the order passe by this Court, short counter affidavit on behalf of respondent Nos.1, 2 & 4 has been filed by the learned Standing Counsel, the same is taken on record.

2. Sri Devansh Mishra, learned counsel for the petitioner placed reliance upon paragraph 17 of the short counter affidavit in which the minutes of meeting/proceeding for obtaining/sanctioning the approval of His/Her Excellency under Article 351-A of Civil Service Rules is mentioned. He placed reliance upon Annexure No.11 of the short counter affidavit and on the basis of the same, it is argued that nowhere mentioned that any approval is given by His/Her Excellency. Even from perusal of the affidavit, it is clear that approval has not been granted by His/Her Excellency but nothing has been stated in the entire affidavit that whether any approval has been granted by His/Her Excellency under Article 351-A of Civil Service Rules.

3. In response to the same, it is argued by learned Standing Counsel placed reliance upon Page 38 of the affidavit in which signatures has been made by Ms. Veena Kumari, Principal Secretary/Chief Secretary of the concerned department. Learned Standing Counsel also placed reliance upon Appendix 2 contained in उत्तर प्रदेश अधिप्रामाणिकरण (आदेश और अन्य लिखित) नियमावली, 197.

4. In response to the same, Sri Devansh Mishra, learned counsel for the petitioner placed reliance upon paragraph No.21 of judgement and order

passed in Special Appeal No.408 of 2021 (Gaya Prasad Yadav Vs. State of U.P. and others) which reads as follows:-

21. In terms of the provisions contained in Article 351-A of the CSR, it is the Governor who reserves to himself the right of withholding or withdrawing a pension or any part of it and right of ordering the recovery from a pension. Opening words of Article 351-A, namely, "The Governor reserves to himself the right" are very important to be noticed. The use of this phrase would mean that no one else has a right including Disciplinary Authority or Appointing Authority to withdraw or withhold pension and ordering recovery from pension in respect of government servant who has retired on attaining the age of superannuation. In this view, the action, if any, against a government servant, who has retired, is permissible to be taken only by the Governor and no one else.

5. The aforesaid judgement was affirmed by Hon'ble Supreme Court vide its order dated 17.02.2025 passed in Special Leave Petition (Civil) Diary No(s).33809 of 2023.

6. At this stage, a prayer has been made by learned Standing Counsel that Sri Amit Saxena, learned Additional Advocate General will argue the matter and prays to adjourn the matter for some time.

7. In this view of the matter, put up as fresh on 29.04.2026.

8. It is made clear that on the said date, matter will not be adjourned.

(Prakash Padia,J.)

April 27, 2026
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