



2026:AHC-LKO:60393

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 11046 of 2020

Dr. Neetu Singh

.....petitioner(s)

Versus

State of U.P. Thru Prin. Secy. Medical Education and Ors.

.....Respondent(s)

Counsel for petitioner(s) : Bajrangi Lal Mishra, Alina Masoodi,
Anand Mani Tripathi, Gaurav
Mehrotra, Utsav Mishra

Counsel for Respondent(s) : C.S.C., Abhinav Trivedi, Kumar
Ayush, Lalita Prasad Misra, Sameer
Kalia, Shubham Tripathi

Court No. - 6

Reserved On : 30.07.2026

Delivered On :25.08.2026

HON'BLE PANKAJ BHATIA, J.

1. Heard Sri Gaurav Mehrotra, learned Senior Advocate assisted by Sri Utsav Mishra, Ms. Alina Masoodi and Surabhi Pandey, the counsel for the petitioner, Sri Pradeep Kumar Singh learned Additional Chief Standing Counsel for the State respondent no.1 and Dr. L.P Mishra assisted by Sri Shubham Tripathi, Sri Inamuddin Ahmad the counsel for the respondents no. 2 to 5 and Sri Kumar Ayush the counsel for the respondent no.6.
2. The present writ petition has been filed by the petitioner challenging an order dated 10/09-06-2020 passed by the opposite party no.4 in compliance of the order dated

08.06.2020 passed by the opposite party no.3 whereby the services of the petitioner were terminated.

FACTS IN BRIEF

3. The facts, in brief, are that the petitioner was appointed on the post of Associate Professor (Non-Medical) Molecular Biology Lab, Centre for Advanced Research Department in King George Medical University Lucknow by the opposite party no.3 vide appointment letter dated 19.03.2026. It is pleaded that working on the said post, the petitioner submitted a report dated 05.03.2020 through the opposite party no.2 to National Health Mission under a project of Government of India, Ministry of Health and Family Welfare namely '*Proposal for Genetic Screening of Hemoglobinopathies in pregnant women in the State of Uttar Pradesh*' for variable Genetic Screening in the State with a further request by a letter dated 05.03.2019 to the opposite part no.2 to review the proposal and provide his feedback.
4. It is pleaded that the National Health Mission accepted the proposal of the petitioner on issuance of a letter dated 25.03.2019 to CMO Lucknow by informing that the Government of India has granted approval of total Rs.385/- lakhs for blood services and also provided detailed guidelines for implementation of the said project. The said letter is claimed was sent indicating that the petitioner was to act as a Nodal Officer for necessary action to ensure examination under the time schedule (Annexure no. 3 & 4). It is claimed by the petitioner that vide letter dated 29.03.2019, the petitioner requested the opposite party no.2 to provide for a space to proceed with the project and requested for allocation of Room No.106. It is claimed that the opposite party no.2, in terms of

the said request, allocated Room no.106. Subsequently, however, the said room was not provided for the project. It is also claimed that a detailed plan for implementation was prepared by the petitioner for allocating the tests in ten districts and subsequently, vide letter dated 12.04.2019, it was informed to the officer, KGMU stating that since the funds allocated could not be utilized for the financial year 2018-2019, the same would be utilized in the subsequent financial year 2019-20.

5. It is claimed by the petitioner that one Dr. Ashutosh Kumar, MD, Professor and Head of Department of Pathology, with a malafide intent made a complaint in the form of confidential report on 08.05.2019 to the opposite party no.2 with regard to grant of Rs.3.85 crores for the project and allegedly made frivolous and false allegations against the petitioner that the proposal submitted by the petitioner, was a case of stealing of 'intellectual rights' of one Dr. Neetu Nigam and had the flavour of plagiarism as the same were clearly similar to the one submitted by Dr. Neetu Nigam and made suggestions that the reports be placed before the National Health Mission for settling the issues. It is claimed by the petitioner that the said action of Dr. Ashutosh Kumar was malafide as he was interested in getting full control over the project under the Pathology Department.
6. It is pleaded that vide notice dated 09.05.2019, it was informed that in pursuance to an order dated 07.05.2019 passed by the opposite party no.2, a fresh committee comprising of twelve members has been constituted under the Chairmanship of Professor Vinita Das including Dr. Ashutosh Kumar (HOD of Pathology) and Dr. Amita Pandey for implementation of the project. It is claimed that as the petitioner was suffering from heat stroke, she informed about her inability to attend the

meeting. It is claimed that some unwarranted comments were made in the meeting for her absence and treated the same to be deliberate negligence on her part. It is further claimed that on 14.05.2019, another meeting was held under the chairmanship of opposite party no.2 along with the special invitees and the confidential report of Dr. Ashutosh Kumar was placed and discussed in the said meeting despite the same not being mentioned in the minutes of the proceedings and a decision was taken for implementation of the project under the co-supervision of Prof. Ashutosh Kumar in collaboration with Prof. Vinita Das. It is claimed that in response to the confidential report submitted by Dr. Ashutosh Kumar on 08.05.2019, discussed in the meeting held on 14.05.2019, the petitioner submitted an explanation denying the contents (Annexure no. 14 to the writ petition). It is stated that as no action was being taken against Dr. Ashutosh Kumar and Dr. Neetu Nigam, the petitioner sent a legal notice of defamation through her counsel on 07.06.2019 to Dr. Ashutosh Kumar and Dr. Neetu Nigam (Annexure no.16) to which no response was given by them, as such, a fresh reminder notice was given through the petitioner's counsel once again on 30.07.2019. It is claimed because of the said action, the name of the petitioner was removed from the panel of the Committee of Members for implementation of the project. It is further pleaded that a perusal of the minutes reveal that the name of the petitioner was removed particularly on the ground of 'medical' and 'non-medical' as most of the Members of the Committee belonged to the medical group.

7. It is also pleaded that on account of the said actions, a vigilance report was submitted on 31.08.2019 whereby, a prima-facie view was formed with regard to the petitioner being guilty and

a recommendation was made to the Executive Council for disciplinary action against the petitioner. It is claimed that in pursuance to the said recommendations, a notice dated 28.09.2019 was issued to the petitioner and the petitioner was provided 48 hours' time to submit her explanation against the aforesaid complaints. In the said notice, the petitioner was asked to provide reasons for issuance of the legal notice of defamation, which according to the petitioner was justified by her, through communication dated 30.09.2019. Subsequently, on the basis of resolution passed by the Executive Council in its meeting dated 19.10.2019, a six member committee was constituted to enquire the matter and the report of the Vigilance Officer submitted on 31.08.2019, in reference to the legal notices sent to the Prof. Ashutosh Kumar and Dr. Neetu Nigam by the petitioner. The said committee comprises of two retired judges also. In the said meeting, a resolution was passed for initiating disciplinary proceedings against the petitioner. In pursuance to the said decision, a charge-sheet was served upon the petitioner on 01.01.2020 (Annexure no.27). In all, four charges were levelled against the petitioner.

8. The first charge was based on the allegation that Dr. Ashutosh Kumar in his letter had apprised the Vice Chancellor that the project submitted by the petitioner was similar to the one submitted by one Dr. Neetu Nigam, which may lead to allegations of plagiarism and may be perceived as a case of stealing intellectual rights of Dr. Neetu Nigam and a view was formed that based upon the said deficiency, the project could not be approved and based upon the said apprehensions, the petitioner wanted somehow the project to be approved for which, pressure was built and the same amounted to in subordination and had resulted in the image of the University

going down and it was also stated that issuance of the legal notice, at the instance of the petitioner, amounted to misconduct as specified in the first statute of the University, Para 41 Rule 10.07(3)(1)(2)(3) (4)(5)(7)(8)(9)(10)(12)(13)(14) (16)(17).

To prove the said charges, four evidences were proposed, first being the letter of Dr. Ashutosh Kumar dated 08.05.2019, the response of the petitioner dated 20.05.2019, and the letter dated 14.06.2019 by Dr. Amita Padey and fourth being oral evidence for proving the said letters.

9. The second charge levied against the petitioner was that for obtaining the said project, the petitioner had failed to discharge her duties and responsibility as well as was guilty of effort to steal the intellectual property rights and amounted to violation of teacher ethics. It was also alleged that by giving wrong information and by violating the administrative rules, the petitioner wanted to push the project without a proper review, which conduct of the petitioner was amounting to indiscipline, non-following of the ethics of a teacher with an effort to bypass the administrative process. It was also alleged that legal pressure was tried to be applied on the review officer Dr. Amita Pandey, which was proved by her letter dated 14.06.2019 and thus, the acts of the petitioner amounted to misconduct in terms of the provisions contained in Section 41 (Gha) Rule 10.07 (1) (2)(3) (4)(5)(7)(8)(9)(10)(12)(13)(14)(16) & (17).

To prove the said charge, the respondent University proposed to rely upon the letter of Dr. Amita Pandey dated 14.06.2019, the letter of the petitioner dated 20.05.2019 and thirdly any oral evidence that may be required to prove the two documents.

10. The third charge levied against the petitioner was that for getting the said project, unauthorised pressure was exercised against the University through outside agencies, which included the issuance of a legal notice through an advocate to the Head of the Department and Dr. Neetu Nigam and when an explanation was sought, the said two persons were alleged to be guilty by the petitioner, which conduct of the petitioner amounted to misconduct under Regulation 41(G) Rule 10.07 (1)(2)(3) (4)(5)(7)(8)(9)(10)(12)(13)(14)(16) & (17).

To prove the said charge, the legal notice got served at the instance of the petitioner was proposed to be relied upon and any oral evidence that may require to prove the said document.

11. The fourth charge against the petitioner was that in respect of the charge no.1 to 3, resulted in spoiling the atmosphere of the academics in the University and an effort was made to promote indiscipline, which has resulted in bad image of the University with regard to the general working and affairs and have the brought the University in great disrepute, which act of the petitioner amounted to violations specified in Regulation 41(Gha) Rule 10.07 (1)(2)(3) (4)(5)(7)(8)(9)(10)(12)(13)(14) (16) & (17).

To prove the said charge, the documents proposed to be relied upon were the letter by Dr. Ashutosh Kumar dated 08.05.2019, the letter of the petitioner dated 20.05.2019, the legal notices issued at the instance of the petitioner and any oral evidence that may be required to prove the said documents.

12. In the charge-sheet, it was stated that the allegations against the petitioner were also violative of UP Government Servant Conduct Rules, 1956 and thus was punishable. The petitioner was called upon to give a reply within a period of fifteen days

failing which it would be presumed that she has nothing to say and the enquiry would proceed ex-parte. It was also stated that in case, the petitioner does not appear before the Committee, the proceedings would proceed in her absence. The petitioner was given liberty to give such evidence as may be desired. It was also indicated that in respect of the charges, which were not admitted by the petitioner, the Committee would conduct the enquiry based upon the evidence.

13. In response to the said charge-sheet, the petitioner gave a reply dated 10.01.2020 and stated that before giving a reply to the charge-sheet, the petitioner desired certain documents and also requested that before giving her reply, she wanted to cross examine Dr. Ashutosh Kumar and Dr. Neetu Nigam and Dr. Amit Pandey. She also desired information as to which outside agency was used by the petitioner, as alleged, for exercising pressure, as alleged in the charge-sheet and wanted the names of the persons, who were allegedly pressurised. She also desired the appointment order of Dr. Amita Pandey. She also indicated that she wanted to produce three persons in support of her evidence. She also requested that she be permitted to take the help of a legally trained person as allegations were made with regard to the alleged stealing of intellectual rights of plagiarism and in the absence of a legal help, she may not be able to meet the charges.
14. In response to the said letter, the committee of five persons, which included two retired judges, recorded that all the documents proposed to be relied upon had already been provided to the petitioner. A further opportunity was given to the petitioner to inspect the records within three days and submit her reply within ten days (Annexure no.29). The petitioner once again wrote a communication dated 28.01.2020

wherein allegations were levelled against the driver with regard to the alleged sexual overtures used by him. The said response is on record as Annexure no.30.

15. The committee in response to the letter written by the petitioner, convened a meeting on 30.01.2020 and the petitioner was directed by the enquiry committee to identify those persons, who had allegedly behaved indecently had sexually harassed her, to which the petitioner had identified and the said persons denied such a conduct. Subsequently, the petitioner was informed about the next meeting of the enquiry committee to be held on 06.02.2020. The petitioner once again made a complaint to the opposite party no.2 about the alleged incident which took place with her on 18.01.2020 and requested for lodging of criminal case and a further request for providing the documents were also made. The petitioner also made a complaints to the Director General of Police, Additional Director General of Police and the Chairman of the Women Commission and Human Rights Commission through her application dated 05.02.2019 regarding the harassment faced by her. It is claimed by the petitioner that thereafter the petitioner had lost all hope of any justice from the Committee, as such, she did not appear before the committee on 06.02.2020 and had already indicated that till the date, any necessary documents are provided, she would not be participating in the enquiry. It is also on record that on 13.02.2020, on the basis of the complaint made, a committee was constituted to look into the alleged sexual harassment in the light of the Vishakha Committee, which did not find the allegation by the petitioner to be correct. Subsequently, the enquiry was concluded against the petitioner in her absence and a report thereof was submitted on 11.03.2020. After submission of the ex-parte enquiry report,

a show cause notice was served upon the petitioner by the opposite party no.2 on 19.03.2020 annexing therewith a copy of the ex-parte enquiry report and calling upon the petitioner to submit her reply within a period of two weeks. Subsequently, the petitioner kept on requesting for postponing, however, an order came to be passed on 10.06.2020 whereby the petitioner's services had been terminated. The enquiry report is on record as well as the order of termination, which is under challenge in the present writ petition.

SUBMISSION ON BEHALF OF PETITIONER

16. In the light of the facts, as noticed above, Sri Gaurav Mehrotra, learned Senior Advocate assisted by Sri Utsav Mishra, the counsel for the petitioner strenuously argues that the disciplinary committee was under obligation for fixing date, time and place for proving or disproving the charge against the petitioner particularly when the petitioner had not admitted the charges and the same had to be followed, even if the petitioner did not participate in the enquiry proceedings in terms of the mandate under Rule 7 of the 1999 Rules.

17. Sri Gaurav Mehrotra, further argues that as under :

- A. On vague, frivolous and flimsy grounds, a Charge Sheet dated 01.01.2020 was served upon the petitioner, wherein 04 charges have been levelled against the petitioner, and in support of the charges, and in order to prove the same, a list of documentary and oral evidence, are mentioned in the Charge Sheet dated 01.01.2020.
- B. In the aforesaid Charge Sheet dated 01.01.2020 at Clause No. 04, it is mentioned that in the enquiry proceedings, if the charges have not been admitted by the petitioner, then the Disciplinary Committee will record the evidence of

the witness, and such witness which are produced during the enquiry would be subject to cross examination by the petitioner. Clause No. 4 of the Charge Sheet dated 01.01.2020 is as under:

“4) जॉच कार्यवाही में जिन आरोपों को आपने स्वीकार नहीं किया है जिन तथ्यों पर जॉच कमेटी आवश्यक समझती है उस संबंध में साक्षियों के साक्ष अंकित किये जायेंगे। जो साक्षी प्रस्तुत किए जाएंगे उनके प्रतिपरीक्षण का आपको अवसर मिलेगा/प्राप्त होगा।”

- C. The petitioner in response to the Charge Sheet dated 01.01.2020, submitted her tentative reply dated 10.01.2020 wherein, *inter alia*, the petitioner denied the charges levelled against her, and sought certain relevant documents which were necessary for effectively putting forth her defense, and had also submitted a list of witnesses, which would be presented by the petitioner during the enquiry in support of her defense.
- D. The Disciplinary Committee constituted by the KGMU, which also included two former Hon'ble Judges of this Hon'ble Court, submitted its enquiry report dated 11.03.2020, under the misconceived notion that no reply to the Charge Sheet dated 01.01.2020 was filed by the petitioner when in fact the petitioner though had not submitted a final reply to the Charge Sheet, however, indisputably, had submitted a tentative reply dated 10.01.2020, in which the charges levelled had not been admitted, proceeded to hold that the charges levelled against the petitioner in the aforesaid Charge Sheet dated 01.01.2020 stood proved.
- E. It is submitted that the Disciplinary Committee in its enquiry report dated 11.03.2020, had failed to adhere to the provisions of Rule 7 of the Rules, 1999 (which have

been adopted by the KGMU in respect of Disciplinary Proceedings against the faculty members), in as much as the charges levelled against the petitioner were proved without proving/disproving the oral and documentary evidence in support of the charges levelled against the petitioner, and without holding any oral enquiry for the aforesaid purpose.

- F. In the *ex parte* enquiry report dated 11.03.2020, there is no reference to proving/disproving of the evidence, neither documentary nor oral, and the charges have been purportedly shown to be proved as against the petitioner, merely because allegedly no reply to the Charge Sheet was furnished by the petitioner. The same has been done despite the fact that the charges so levelled had never been admitted by the petitioner, and further, in complete ignorance of the aforesaid tentative reply dated 10.01.2020 submitted by the petitioner in response to the aforesaid Charge-Sheet dated 01.01.2020.
- G. There is no discussion or finding as to how the charges which were levelled against the petitioner, have been shown to be proved against the petitioner, and further, the Disciplinary Committee has taken the documentary evidence which was relied on by the Department in support of the charges as “gospel truth”, without proving/disproving the same. For example, the Disciplinary Committee, with respect to Charge No. 2, has held that the absence of non-denial/unchallenged and unrebutted evidence, i.e., the letter dated 08.05.2019 of Dr. Ashutosh Kumar, and the letter dated 20.05.2019 of Dr. Neetu Nigam, establishes what has been said in the charge.

- H. The Disciplinary Committee without proving the said letter dated 08.05.2019 of Dr. Ashutosh Kumar and the letter dated 20.05.2019 of Dr. Neetu Nigam, through oral evidence, has held the evidence against the petitioner and has thus failed to discharge its duty of a quasi-judicial authority of proving the said charge orally.
- I. Disciplinary Committee acting as a quasi-judicial authority is in the position of an independent adjudicator and is not supposed to be a representative of the department/disciplinary authority /KGMU. The function of the Disciplinary Committee was to examine the evidence presented by the KGMU, even in the absence of the petitioner, to see as to whether the evidence is sufficient to hold that the charges stand proved on the basis of the material available on record.
- J. In the present case, the aforesaid procedure has not been complied with by the Disciplinary Committee, in as much as neither has any oral evidence been examined by Disciplinary Committee nor any documents have been proved by any witnesses; thus, the documentary evidence could not have been deemed to be proven. The aforesaid contention of the petitioner is fortified by a catena of pronouncements of the Hon'ble Supreme Court of India as well as this Hon'ble Court, a few of which are reported in **2024 SCC OnLine SC 3325** in re: *Satyendra Singh Vs. State of Uttar Pradesh and Another*, in the case reported in **(2010) 2 SCC 772** in re: *State of Uttar Pradesh and Ors v. Saroj Kumar Sinha* and in the case reported in **2026 SCC OnLine SC 505** in re: *Jai Prakash Saini Vs. Managing Director, U.P Cooperative Federation Ltd., and Other*.

- K. It is no more *res-integra* that, in a departmental inquiry, mere production of documents is not enough, and the contents of the documentary evidence must be proved by examining the witnesses and questioning the witnesses with respect to the said documents. However, as is evident from the records of the proceedings in the instant matter, the charges leveled in the charge-sheet, which are 04 in number (Charge No. 4 is nothing but an amalgamation of charges No. 1 to 3), were shown to be proven by the Disciplinary Committee in the *ex parte* Enquiry Report dated 11.03.2020, based on unproven documentary evidence which were not corroborated by examining any oral witnesses.
- L. The procedure for imposing a major penalty is prescribed in Rule 7 of the 1999, Rules which inter alia mandates that Before imposing a major penalty on a delinquent employee, an enquiry shall be held whereby, the disciplinary authority may inquire into the charges or appoint an authority subordinate to him to inquire into the charges. The facts constituting the misconduct of the delinquent employee shall be reduced in form of a charge-sheet clearly and categorically stating the charges against the delinquent employee and duly approved by the disciplinary authority. Rule 7 of the Discipline and Appeal Rules, 1999 is being reproduced hereunder:

“7. Procedure for imposing major penalties- Before imposing any major penalty on a Government Servant, an inquiry shall be held in the following manner:

- (i) The Disciplinary Authority may himself inquire into the charges or appoint an Authority Subordinate to him as Inquiry Officer to inquire into the charges.

- (ii) The Facts constituting the misconduct on which it is proposed to take action shall be reduced in the form of definite charge or charges to be called charge-sheet. The charge-sheet shall be approved by the Disciplinary Authority.

Provided that where the Appointing Authority is Governor, the charge-sheet may be approved by the Principal Secretary or the Secretary, as the case may be, of the concerned department.

- (iii) The charge framed shall be so precise and clear as to give sufficient indication to the charged Government Servant of the facts and circumstances against him. The proposed documentary evidence and the name of the witnesses proposed to prove the same along with oral evidence, if any, shall be mentioned in the charge-sheet.

- (iv) The charge Government Servant shall be required to put in a written statement of his defence in person on a specified date which shall not be less than 15 days from the date of issue of charge-sheet and to state whether he desires to cross-examine any witness mentioned in the charge-sheet and whether desires to give or produce evidence in his defence. He shall also be informed that in case he does not appear or file written statement on the specified date, it will be presumed that he has none to furnish and inquiry officer shall proceed to complete the inquiry ex-parte.

- (v) The charge-sheet, along with the copy of the documentary evidences mentioned therein and list of witnesses and their statements, if any shall be served on the charged Government Servant personally or by registered post at the address mentioned in the official records in case the charge-sheet could not be served in aforesaid manner, the charge-sheet shall be served by publication in a daily newspaper having wide circulation:

Provided that where the documentary evidence is voluminous, instead of furnishing its copy with charge-sheet, the charge Government servant shall be permitted to inspect the same before the Inquiry Officer.

- (vi) Where the charged Government Servant appears and admits charges, the Inquiry Officer shall submit his report to the Disciplinary Authority on basis of such admission.
- (vii) Where the charges Government Servant denies the charge the Inquiry Officer shall proceed to call the witness proposed in the charge-sheet and record their oral evidence in presence of the charge Government Servant who shall be given opportunity to cross-examine such witnesses. After recording the aforesaid evidences, the Inquiry Officer shall call and record the oral evidence which the charged Government Servant desired in his written statement to be produced in his defence:
Provided that the Inquiry Officer may for reasons to be recorded in writing refuse to call a witness.
- (viii) The inquiry officer may summon any witness or give evidence or require any person to produce documents before him in accordance with the provisions of the Uttar Pradesh Departmental Inquiries (Enforcement of Attendance of witnesses and production of documents) Act 1976.
- (ix) The Inquiry Officer may ask any question he pleases, at any time of any witness or from person charged a view to discover the truth or to obtain proper proof of facts relevant to charges.
- (x) Where the charged Government Servant does not appear on the date fixed in the inquiry or at any stage of the proceeding inspite of the service of notice on him or having knowledge of the date the Inquiry Officer shall proceed with the inquiry ex-parte. In such a case the Inquiry Officer shall record the statement of witnesses mentioned in the charge-sheet in absence of the charged Government Servant.
- (xi) The disciplinary Authority, if it considers it necessary to do so, may by an order appoint a Government Servant or a legal practitioners to be known as “Presenting Officer” to present on its behalf the case in support of the charge.
- (xii) The Government servant may take the assistance of any other Government Servant to

present the case on his behalf but may engage a legal practitioners for the purpose unless the presenting officer appointed by the Disciplinary Authority is a legal practitioners of the disciplinary Authority having regard to the circumstance of the case so permits.

Provided that the rule shall not apply in the following cases:

- (i) Where any minor penalty is imposed on a person on the ground of conduct which has led to his conviction on a criminal charge.

or

- (ii) Where the Disciplinary Authority is satisfied, that for reason to be recorded by it in writing, that it is not reasonably practicable to hold an inquiry in the manner provided in these rules; or
- (iii) Where the Governor is satisfied that, in the interest of the security of the state, it is not expedient to hold an inquiry in the manner provided in these rules.”

M. Rule 7(iii) of the Rules, 1999, in clear and unequivocal terms prescribe that the charges framed against a delinquent employee shall be so precise and clear as to give sufficient indications to the charged employee of the facts and circumstances against him. Further, the proposed documentary evidence, and the names of the witnesses proposed to prove the same, along with the oral evidence, if any shall be mentioned in the charge-sheet.

N. In the instant matter, it was mentioned in the Charge-Sheet dated 01.01.2020 that oral witness/evidence would be produced to prove the documentary evidence, however, perusal of the *ex parte* enquiry report dated 11.03.2020, makes it evident that none of the alleged charges which were found to be proven against the petitioner, has been done so by corroboration of the evidence by the oral witnesses. In the aforesaid regard,

reliance is placed on a recent pronouncement of a Judgment and Order reported in *Satyendra Singh Vs. State of Uttar Pradesh and Another* (Supra).

“Same view was reiterated in State of Uttar Pradesh v. Saroj Kumar Sinha, wherein, this Court held that even in an ex-parte inquiry, it is the duty of the Inquiry Officer to examine the evidence presented by the Department to find out whether the unrebutted evidence is sufficient to hold that the charges are proved. The relevant observations made in Saroj Kumar Sinha are as follows:—

28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.

33. As noticed earlier in the present case not only the respondent has been denied access to documents sought to be relied upon against him, but he has been condemned unheard as the inquiry officer failed to fix any date for conduct of the enquiry. In other words, not a single witness has been examined in support of the charges levelled against the respondent. The High Court, therefore, has rightly observed that the entire proceedings are vitiated having been conducted in complete violation of the principles of natural justice and total disregard of fair play. The respondent never had any opportunity at any stage of the proceedings to offer an explanation against the allegations made in the charge-sheet.”

- O. In view of the above, the Disciplinary Committee was under obligation for fixing date, time and place for proving of the charges levelled against the petitioner in the Charge Sheet dated 01.01.2020 and it was incumbent upon the Disciplinary Committee to have examined the documentary evidence in support of the charges levelled against the petitioner, including holding of oral enquiry to prove the charges so levelled against the petitioner, particularly when the charges were not admitted by the petitioner, which was evidently not done in the instant matter.
- P. Furthermore, it is well settled that even in an *ex-parte* enquiry it is the duty of the Inquiry Officer to examine the evidence presented by the Department to find out whether the un rebutted evidence is sufficient to hold that the charges are proved and in absence whereof, the entire enquiry proceedings would stand vitiated. Thus, in the instant case, the entire enquiry proceedings including the impugned order dated 10.06.2020 stand vitiated as neither was any date, time and place fixed and nor was any oral enquiry held examining the oral and documentary evidence to prove/disprove the charges levelled against the petitioner.
18. The next argument of the counsel for the petitioner that merely the petitioner had given a tentative reply to the charge-sheet, the Disciplinary Committee was still duty bound to consider all the relevant aspects of the matter and hold a proper enquiry as per Rules 1999, even in the absence of reply of the petitioner. To elaborate the said submissions, the counsel for the petitioner argues as under :

- A. The petitioner in reply to the Charge Sheet dated 01.01.2020, submitted her tentative reply dated 10.01.2020, wherein *inter alia* the petitioner did not admit the charges levelled against her, and had sought certain relevant documents which were necessary for effectively putting forth her defence, and had also submitted a list of witnesses, which would be presented by the petitioner during the enquiry, in support of her defence.
- B. Despite the petitioner not submitting a Final reply to the Charge-Sheet, it was incumbent upon the Disciplinary Committee to have at least considered the tentative reply dated 10.01.2020 of the petitioner, which was conspicuously absent from the consideration of the Disciplinary Committee, while submitting the *ex-parte* Enquiry Report dated 11.03.2020.
- C. The Disciplinary Committee in its *ex-parte* Enquiry Report dated 11.03.2020 has even failed to acknowledge the tentative reply dated 10.01.2020 of the petitioner, despite the fact that the Disciplinary Committee in its earlier meeting convened on 18.01.2020 had categorically recorded that the petitioner had submitted her reply requesting for supply of certain documents, basis whereupon, the charges had been framed.
- D. Thus, Disciplinary Committee has proceeded to hold the *ex-parte* enquiry on the incorrect premise that no reply was submitted by the petitioner, whereas, the petitioner had, in fact, submitted the aforesaid tentative reply dated 10.01.2020 and had categorically requested for supply of documents relied upon for framing the charges levelled

against the petitioner as contained in the aforesaid charge-sheet dated 01.01.2020.

- E. Arguendo, even if it is assumed that no reply at all was submitted by the petitioner (though the petitioner had submitted a tentative reply dated 12.01.2020 in response to the aforesaid the Charge Sheet dated 01.01.2020), even then the Disciplinary Committee was duty-bound to hold the Enquiry Strictly in accordance with the Rules, 1999.
- F. The Hon'ble Supreme Court of India as well as this Hon'ble Court, in a catena of pronouncements, including the Judgments reported in **2024 SCC OnLine SC 3325** in re: *Satyendra Singh Vs. State of Uttar Pradesh and Others*, reported in **(2010) 2 SCC 772** in re: *State of Uttar Pradesh and Others Vs. Saroj Kumar Sinha* and reported in **2017 SCC OnLine All 2909** in re: *Mazda Begum and Others VS. State of Uttar Pradesh and Others* has held that even in an ex-parte disciplinary enquiry, it is *sine qua non* to record the evidence of the witnesses for proving the charge and even if, the delinquent employee prefers not to participate in enquiry the department has to establish the charges against the delinquent employee by adducing oral as well as documentary evidence. In case charges warrant major punishment, then the oral evidence by producing the witnesses is mandatory.
- G. In the instant matter, from a bare perusal of the material available on record, it transpires that the Disciplinary Committee has in contravention to the procedure laid in Rule 7 of the 1999 Rules held the charges deemed to be proved as against the petitioner merely because in the

opinion of the Disciplinary Committee the charges as contained in the aforesaid Charge-Sheet dated 01.01.2020 remained unrebutted in the absence of a reply submitted by the petitioner in complete ignorance of the tentative reply dated 10.01.2020 submitted by the petitioner, and as such, the Disciplinary Committee, conducted the entire enquiry proceedings by forgoing the procedure prescribed under the Rules, 1999 and without proving the charges with support of the documentary evidence by holding an oral enquiry.

H. In the aforesaid regard, reference may also made to a Judgment and Order dated 07.09.1999 passed by a Division Bench of this Hon'ble High Court, reported in **1999 SCC OnLine All 1331** in re: ***Subash Chandra Sharma vs. Managing Director and Anr.*** whereby, it has been categorically held that an employee's services ought not to be terminated without following the due procedure and contravention of the same results in violation of the principles of natural justice. The relevant extract from ***Subash Chandra Sharma (Supra)*** is reproduced herein below for the ease of perusal of this Hon'ble Court:

“6. In our opinion after the petitioner replied to the charge-sheet a date should have been fixed for the enquiry and the petitioner should have been intimated the date, time and place of the enquiry and on that date the oral and documentary evidence against the petitioner should have been led in his presence and he should have been given an opportunity to cross-examine the witnesses against him and also he should have been given an opportunity to produce his own witnesses and evidence. If the petitioner in response to this intimation had failed to appear for the enquiry then an ex-

parte enquiry should have been held but the petitioner's service should have not been terminated without holding an enquiry. In the present case it appears that no regular enquiry was held at all. All that was done that after receipt of the petitioner's reply to the charge-sheet he was given a show cause notice and thereafter the dismissal order was passed. In our opinion this was not the correct legal procedure and there was violation of the rules of natural justice. Since no date for enquiry was fixed nor any enquiry held in which evidence was led in our opinion the impugned order is clearly violative of natural justice."

- I. It is no more *res-integra*, that in a disciplinary proceeding the burden of proof lies upon the employer/Department, and unless the delinquent employee has admitted the guilt in clear terms, a proper enquiry on the charges drawn must be held.
- J. Pertinently, in the instant matter, the petitioner has neither in her tentative reply dated 10.01.2020 to the Charge Sheet, nor in any other correspondence/document ever admitted her guilt.
- K. The Hon'ble Supreme Court of India in a very recent pronouncement reported in **2026 SCC OnLine SC 505** in re: ***Jai Prakash Saini Vs. Managing Director, U.P Cooperative Federation Ltd., and Other*** has held that in a disciplinary Proceedings, a Charge Sheet is not a plaint where an evasive reply thereto, may amount to an admission. In a departmental enquiry unless the charge is admitted, the burden to prove the charge lies on the employer. For ease of perusal and kind consideration of this Hon'ble Court, the relevant extract of the Judgment of the Hon'ble Supreme Court of India in ***Jai Prakash Saini (Supra)*** is reproduced herein under:

“14. We do not find substance in the submissions made on behalf of the respondents because **there is no categorical admission of the charge by the appellant. Further, a departmental charge-sheet is not a plaint that an evasive reply thereto may amount to an admission. In a departmental enquiry, unless the charge is admitted, the burden to prove the charge lies on the employer/department.** Here, there was no admission of guilt *qua* the charge. Even the High Court, in paragraph 20 of its judgment, had indicated that the writ petitioner (i.e., the appellant herein) had denied the charges made against him. In our view, therefore, the contention on behalf of the respondents that the appellant had admitted the charges is incorrect.

17. From the decisions of this Court in *Sur Enamel* (supra) and *Kharak Singh* (supra), followed in *Chamoli District Cooperative* (supra), which deals with similar service rules as are applicable here, it is now settled that **unless the charged employee accepts his guilt in clear terms, an enquiry on the charges drawn against him would have to be held. In the enquiry, the employer/department would have to take steps first to lead evidence against the workmen/delinquent charged and give an opportunity to him to cross examine those witnesses.** Only thereafter, the workmen/delinquent shall be asked whether he wants to lead any evidence and/or submit an explanation about the evidence led against him. Even in a case based solely on documentary evidence, unless the relied upon documents are admitted by the charged employee, a witness would have to be examined to prove those documents and when so examined, the witness would have to be tendered for cross-examination.

18. In the instant case, we find that the department had not produced any witness in the enquiry even though the charges levelled upon the appellant were denied by him. Therefore, in our view, the enquiry stood vitiated. Once the enquiry stood vitiated, the consequential order of punishment/recovery cannot be sustained. We therefore allow this appeal. The impugned

judgment and order of the High Court is set aside. The writ petition of the appellant stands allowed to the extent indicated below. The order of dismissal and consequential recovery is set aside. The Federation is, however, at liberty to hold a *de novo* enquiry, if it so desires, within a period of six months from the date of this order. If the Federation does not hold *de novo* enquiry as permitted above, the appellant shall be entitled to reinstatement with benefit of continuity in service including arrears of salary after adjusting suspension allowance, if any, paid already. In case the Federation chooses to hold an enquiry, it shall reinstate the appellant and place him under suspension till completion of the enquiry and during this period pay suspension allowance as may be payable in accordance with law. In case *de novo* enquiry is held, other service benefits including arrears of salary as well as benefits of continuity in service shall depend on the outcome of the enquiry.

- L. It is further submitted that the impugned resolution dated 08.06.2020 of the Executive Council of KGMU (which is reproduced in the impugned order dated 10.06.2020) does not return any finding recording the satisfaction of the Disciplinary Authority, and has been passed without any independent application of mind, by merely adopting a “cut and paste” approach by recording the finding of the Disciplinary Committee.
- M. It is *trite* law that the departmental proceedings against a Government Officer are *quasi-judicial* in nature, and the *quasi-judicial* authority is expected to arrive at its conclusion only after consideration of all the materials available before it and after its evaluation. In absence of any consideration or evaluation of material and evidences available before the Enquiry Officer, if any inquiry report is submitted, the same, cannot be made the basis of taking any decision by the Disciplinary

Authority. The aforesaid contention of the petitioner is fortified by a catena of pronouncements, of the Hon'ble Supreme Court of India as well as the Hon'ble High Courts, including a recent pronouncement of the Hon'ble Division Bench of this Hon'ble Court, in Judgment and Order dated 22.05.2023 passed in ***Special Appeal No. 247 of 2023 (Sanjay Vs. State of U.P. and Others)***, in which it has been held that:

“16. As far as the other submissions made by learned counsel for appellant-petitioner are concerned, we have no hesitation to say, after perusing the inquiry report, that the Inquiry Officer has not applied his mind at all to the facts and circumstances as also to the evidence, documents and other material available in the inquiry proceedings. A perusal of the inquiry report submitted by the Inquiry Officer, dated 17.12.2015 would clearly reveal that the same appears to be an exercise in “cut and paste”. The Inquiry Officer after noticing the proceedings in the initial paragraphs of the said inquiry report, has copied verbatim the charge, reply submitted by the appellant-petitioner to the charge sheet, comments of the Presenting Officer and thereafter the reply submitted by the appellant-petitioner to the said comments. **However, the Inquiry Officer has not considered, much less evaluated, the evidence, documents and material available on the inquiry proceedings. He rather has jumped straightway to his conclusions and such a course, in our opinion, adopted by the Inquiry Officer, cannot be sustained.**

17. It is needless to say that the departmental proceedings conducted against the government officer/employee are quasi-judicial in nature. Any quasi-judicial authority is expected to arrive its conclusion only after consideration of all the materials available before it and after its evaluation. **In absence of any consideration or evaluation of material and evidences available before the Inquiry Officer, if any**

inquiry report is submitted, the same, in our opinion, cannot be made the basis of taking any decision by the Disciplinary Authority.

18. We have also perused the punishment order dated 03.06.2019 passed by the Disciplinary Authority. However, the said order is also completely non-speaking in the sense that the Disciplinary Authority has also not considered and evaluated the material and evidences available on the inquiry. The Disciplinary Authority has only stated , after quoting the charge, reply of the appellant-petitioner and the conclusions drawn by the Inquiry Officer. However, the punishment order is completely bereft of any discussion or consideration or evaluation of the materials and evidences available on the inquiry report. In our opinion, such a punishment order is alien to the settled legal principles governing the departmental proceedings and accordingly, the same is not liable to be sustained”

- N. Similarly, the Hon’ble Division Bench of this Hon’ble Court vide Judgment and Order dated 01.07.2024, passed in **Writ-A No. 481 of 2016 (*Akhilesh Kumar Vs. State of U.P. and Others*)**, while allowing the Special Appeal has held that on perusal of the Punishment Order therein, it was apparent that the disciplinary authority did not apply its independent application of mind to the material on record. Further, there was no discussion on the charges, the reply of the Writ petitioner therein, the evidence on which the enquiry report was based, and the Disciplinary Authority, in a cursorily manners had simply accepted the findings of the Enquiry Officer. For ease of perusal and kind consideration of this Hon’ble Court, the relevant extract of the Judgement and Order dated 01.07.2024, is reproduced herein under:

“.....Having heard learned counsel for the parties and having perused the records especially the charge-sheet, the reply of the petitioner, the inquiry report, the show cause notice, the reply of the petitioner to the same, the punishment order and the appellate order as also the judgment of the Tribunal, one fact which stares us in our face is that after submission of reply to the charge-sheet the Inquiry Officer did not fix any date, time or place of inquiry. Not only did he conduct any inquiry in the presence of the delinquent officer he did not give any opportunity of personal hearing to the petitioner also. Even the Disciplinary Authority has not given any opportunity of personal hearing to the petitioner so as to make up for the said lapse. Moreover having gone through the order of punishment we find substance in the contention of the petitioner's counsel that there is no independent application of mind by the Disciplinary Authority to the material on record before him. In fact he has not discussed the charges, the reply of the petitioner, the findings of the Inquiry Officer and the evidence on which the same may have been based nor the reply submitted to the show cause notice but has simply accepted the findings of the Inquiry Officer after cursorily mentioning the charges, the replies and the findings that is without there being any independent discussion on the charges involved. This is not how orders of punishment are to be passed. They have to be speaking orders disclosing application of mind by the Disciplinary Authority independently and in a reasonable manner. The appellate order also does not deal with the pleas raised before the appellate authority. Merely recording the grounds of appeal without considering the same does not amount to fair disposal of the appeal. The appellant order speaks of some written submissions having been given by the petitioner but they have not been considered and there is no reference of its contents in the

appellate order. This is not how appeals are to be decided in terms of rule 11 of the Rules 1999. Of course it is the contention of the learned Additional CSC that from reading of the inquiry report the charges are apparently proved as the powers exercised by the petitioner under Section 42(A) of U.P. Consolidation of Holding Act, 1953 could not have been apparently exercised by him in the facts of the case. However, we find that in this regard there is no discussion in the punishment order as to how it was so. **However, in this regard we find that the petitioner had offered some explanation, may be same was not acceptable but at least a personal hearing should have been given by the Inquiry Officer before submitting his report and prior to it the evidence should have been examined in the presence of the Inquiry Officer as many things could be explained on an oral hearing which may not come out on a written reply to the chargesheet or the show cause notice.....”**

O. Thus, the Disciplinary Committee was duty bound to consider all the relevant aspects of the matter and hold a proper enquiry as per the Rules, 1999, even in absence of the petitioner submitting a Final Reply to the Charge Sheet.

19. The next argument of the counsel for the petitioner is that the charge- sheet served upon the petitioner on 01.01.2020 was vague and ambiguous without even specifying as to which provision of the first statutes were allegedly violated by the petitioner and the enquiry, based upon the vague charges, is arbitrary. To elaborate the said submissions, the petitioner argues as under :

A. The petitioner was served with the Charge Sheet dated 01.01.2020, containing a total of 04 charges, in which it was alleged that the petitioner had committed

misconduct in violation of the Section 41 (D) and Rule 10.07 (3) (1)(2)(3)(4)(5)(7)(8)(9)(10)(12)(13)(14)(16) (17) of the First Statute, 2011 of the KGMU. The relevant provision from the First Statute, 2011 of the KGMU are extracted herein below for ease of reference of this Hon'ble Court:

“Conduct of Teachers

Section 41 (d)

Rule 10.07 (3) A teacher shall be dismissed or removed/terminated from the services on account of being “Unbecoming of a teacher” which inter alia shall include one or more of the following:

- (1) Wilful neglect of duties*
- (2) Dereliction of duties*
- (3) Academic dishonesty*
- (4) Plagiarism*
- (5) Providing wrong information*
- (6) ...*
- (7) Impersonation*
- (8) Academic and Professional incompetence*
- (9) Moral turpitude*
- (10) Embezzlement/scams/scandals*
- (11) ...*
- (12) Breach of Contract/Undertaking*
- (13) Vitiating the academic ambience*
- (14) Not observing the Academic, Financial, Professional and Administrative integrity*
- (15) ...*
- (16) Involvement in actions defaming the University*
- (17) Involvement and/or instigation of creating indiscipline in the University.*

B. Thus, a bare perusal of the aforesaid Charge Sheet dated 01.01.2020 makes it evident that the petitioner

allegedly has been charged with violation of all of the clauses enumerated under Section 41 (D) and Rule 10.07 (3) of the First Statutes 2011, of the KGMU. However, there is no whisper in the entirety of the aforesaid Charge Sheet dated 01.01.2020 and the aforesaid Enquiry report dated 11.03.2020 as to how the alleged violations in as many as fourteen (14) different scenarios contemplated as amounting to conduct unbecoming of a teacher under Section 41(D) and Rule 10.07 (3) of the First Statutes 2011, of the KGMU.

- C. The Charge Sheet dated 01.01.2020 in a very casual and vague manner merely mentions that the petitioner has committed some alleged misconduct in violation of the aforesaid Rule 10.07 of the First Statute, 2011 and its Sub Rule without specifying or elaborating as to what action or omission on part of the petitioner specifically constituted misconduct under all of the aforesaid fourteen (14) clauses under Section 41 (D) and Rule 10.07 (3) of the First Statutes 2011, of the KGMU.
- D. Moreover, Charge No. 4 is nothing but an amalgamation of Charge No. 1 to 3, which is impermissible in the eyes of law as a Charge need to detail out the exact misconduct which the petitioner had allegedly committed.
- E. Thus, the charge levelled in the charge sheet dated 01.01.2020 are not only vague but also ambiguous and not specific as it merely cursorily mentions that the petitioner had allegedly committed misconduct in violation of Rule 10.07 of the First Statute, 2011.

- F. The Hon'ble Supreme Court of India as well as this Hon'ble Court in a catena of pronouncements have held that it is not permissible to hold any enquiry on vague charges, to which no specific reply can be given by the delinquent employee. Few of such judgments are reported in **AIR 1971 SC 752** in re: ***Surath Chandra Chakravarty Vs. The State of West Bengal***, reported in **AIR 2000 SC 3596** in re: ***UPSRTC Vs. Ram Chandra Yadav***, reported in **(2009) 12 SCC 78** in re: ***Union of India Vs. Gyan Chand Chattar*** and reported in **(2011) 14 SCC 379** in re: ***Anil Gilurker Vs. Bilaspur Raipur Kshetria Gramin Bank and Another***
- G. Thus, a Charge Sheet containing vague and uncertain charges without specifying as to how and which provision of the First Statute, 2011 had been violated by the petitioner, was served upon the petitioner, which was not permissible in the eyes of law.
20. The last issue argued by Sri Gaurav Mehrotra is that denial of assistance of a legal practitioner, particularly when the disciplinary committee comprised of two retired Hon'ble Judges, who were legal experts, violates the rights of the petitioner. To elaborate the said submissions, the petitioner argues as under :
- A. The Disciplinary Committee constituted by the KGMU in the Disciplinary Proceedings initiated against the petitioner to enquire into the alleged misconduct committed by her consisted of a total of 06 members, out of which 02 members were Hon'ble Former Judges of this Hon'ble Court.

- B. Since, the Disciplinary Committee consisted of Hon'ble Former Judges of this Hon'ble Court, the petitioner vide letter dated 04.02.2020 addressed to the Vice Chancellor, KGMU had *inter alia*, apprised the Vice Chancellor, KGMU that her request for assistance of a legal practitioner for helping her on the technical issue of "stealing of intellectual property" had been denied by one of the members of the Disciplinary Committee. The Respondents' basis for such denial was that since the presenting officer of the University was not an Advocate therefore, the petitioner cannot be given aid of a legal practitioner.
- C. In the aforesaid regard it is submitted that the Hon'ble Supreme Court of India as well as this Hon'ble Court in a catena of pronouncements including the Judgment reported in (1991) 2 SCC 283 in re: *J.K. Aggarwal vs. Haryana Seeds Development Corporation Ltd. and others*, reported in (2015) 5 SCC 549 in re: *Ramesh Chandra vs. Delhi University and others* and the Judgment and Order dated 30.05.2025 passed by this Hon'ble Court in **Writ-A No. 5698 of 2025 (Dr. Amod Kumar Sachan Vs. State of U.P and Others)** has held that where the enquiry officer is a person of vast legal acumen and experience including a retired Hon'ble Judge is appointed as an enquiry officer in an inquiry initiated against an employee, the denial of assistance of a legal practitioner to the charged employee would be unfair.
- D. This Hon'ble Court in *Dr. Amod Kumar Sachan (Supra)* while considering a similar matter involving disciplinary proceedings initiated against another faculty member of KGMU in whose case also the Disciplinary

Committee consisted of Hon'ble Former Judge of this Hon'ble Court, while permitting the petitioner therein to engage a legal practitioner had held that:

“17. Having heard learned counsel for the parties and having perused the material available on record, it is clear that the Enquiry Committee is having one retired High Court Judge as a member, therefore, in the light of the dictums of Apex Court rendered in re: J.K. Aggarwal (supra), Board of Trustees of the Port of Bombay (supra) and Ramesh Chandra (supra), the petitioner is entitled to be provided legal assistance in the disciplinary proceedings.

- E. Thus, the petitioner could not have been denied assistance of a legal practitioner in aid of her defence during the Disciplinary Proceedings, particularly when the Disciplinary Committee consisted of two Hon'ble Former Judges of this Hon'ble Court.
- F. In the present case, as mentioned above, the petitioner's request for legal representation was categorically denied by the Disciplinary Committee in its meeting dated 06.02.2020, on the ground that the Respondent KGMU was not represented by an advocate in the same Disciplinary Proceedings. Such denial of legal assistance to the petitioner has caused grave prejudice to the petitioner, has resulted in violation of the principles of natural justice and also is in teeth of the law laid down in the Judgment reported in (1991) 2 SCC 283 in re: **J.K. Aggarwal vs. Haryana Seeds Development Corporation Ltd. and others**, reported in (2015) 5 SCC 549 in re: **Ramesh Chandra vs. Delhi University and others** and the Judgment and Order dated 30.05.2025 passed by this Hon'ble Court in **Writ-A No. 5698 of**

2025 (Dr. Amod Kumar Sachan Vs. State of U.P and Others)

- G. It is well settled that the scope of judicial scrutiny under Article 226 of the Constitution, empowers this Hon'ble Court to examine, *inter alia* (i) if at all there are procedural infirmities in the disciplinary proceedings in as much as if the disciplinary proceedings including the enquiry has been held in accordance with the procedure prescribed in the relevant rules, (ii) whether there is violation of principles of natural justice in conducting the disciplinary proceedings and (iii) whether the conclusion of the disciplinary proceedings, on the very face of it is so wholly arbitrary and capricious that no reasonable person could have arrived at such conclusion, and/or if the finding of fact is based on no evidence.
- H. In the instant matter, the procedure prescribed in the relevant rules, that is Rule 7 of the Rules 1999 for holding disciplinary enquiry has been given a go-by as the charges have not been gotten proved/disproved by the enquiry committee, by holding an oral enquiry and further, the principles of natural justice have been violated not only on the aforesaid count but also on the fact that the legal assistance though demanded was rejected despite the fact that two members of the enquiry committee were two Hon'ble Former Judges.
- I. The charges contained in the Charge-Sheet are completely vague and ambiguous and do not make out any misconduct on part of the petitioner, and more particularly, in absence of the same having been proved/disproved, and as such the conclusion arrived at by the enquiry committee as also concurred by the

disciplinary authority, on the face of it so wholly arbitrary and capricious that no reasonable person could ever have arrived at such a conclusion Not only so, since the charges have never been gotten proved/disproved by following the procedure prescribed in Rule 7 of the Rules 1999, as such, it can be safely deduced that finding of fact is based on no evidence.

J. Thus, in view of the facts involved in the matter as are borne out of the pleadings on record as also the law on the point as enumerated hereinabove the punishment order dated 10.06.2020 cannot be sustained even for a moment and is liable to be set aside.

21. In the light of the said arguments, the counsel for the petitioner argues that the proceedings initiated and culminated against the petitioner are liable to be quashed.
22. In support of the submissions made, the counsel for the petitioner states that even if an employee has not participated in the enquiry or the enquiry proceedings have been initiated ex-parte, the disciplinary enquiry must be held strictly in accordance with law. He relies upon the following Judgments :
 - (I). **Satyendra Singh vs. State of U.P. and another;**
(2024) SCC Online SC 3325 with emphasis on paras
11, 12, 13, 14, 15, 16, 17, 19 and 20
 - (II). **Smt. Mazda Begum and others vs. State of U.P. and**
others; (2017) SCC Online All 2909 with emphasis
on para 43.
 - (III). **State of U.P. and others vs. Saroj Kumar Sinha**
(2010) 2 SCC 772 with emphasis on paras 28, 29, 30,
33, 34, 35, 38, 39, 41 & 42.

(IV). Rakesh Kumar Gautam vs. State of U.P. and others decided on 08.10.2025 passed in Writ A No.8475 of 2025 with emphasis on para 4, 14, 15, 16, 17.

(V). Subash Chandra Sharma vs. Managing Director and another; 1999 SCC Online All 1331 with emphasis on para 6.

23. To argue and buttress the submission that the enquiry officer and the disciplinary authority are duty bound to consider, discuss and give proper reason with application of mind before arriving at a conclusion, the petitioner relies upon the judgment and order dated **15.05.2023 passed in Special Appeal No.247 of 2023 (Sanjay vs. State of U.P. and another)** and lays **emphasis on para 18.**

24. To buttress his submission that the burden of prove lies on the employer/ department unless the charged employee admits his/her guilt, the enquiry on all the charges has to be held, the petitioner relies upon the following judgments.

(I). Jai Prakash Saini vs. Managing Director, UPCL Ltd. and others; 2026 SCC Online SC 505 with emphasis on 14, 17, 18.

(II). Nirmala J. Jhala vs. State of Gujrat and others; (2013) 4 SCC 301 with emphasis on paras 41, 42, 43, 44, 45 and 46.

(III). Prakash Chandra Agarwal vs. State of U.P.; judgment and order dated 07.05.2022 passed in Writ A No.2555 of 2022 with emphasis on para 4 and 11.

25. To buttress his submission that the petitioner was entitled to legal assistance especially when the enquiry committee comprised of two Hon'ble Judges, the denial of legal assistance would be violative of the principle of natural justice, the petitioner places reliance on the following judgements -

- I. **Ramesh Chandra vs. Delhi University; (2015) 5 SCC 549 with emphasis on para 67, 68, 69 and 70.**
- II. **J. K. Agarwal vs. Haryana Seeds Development Corporation Ltd. (1991) 2 SCC 283 with emphasis on para 8.**
- III. **Dr. Amod Kumar Sachan vs. State of U.P. and others; judgment and order dated 30.05.2025 passed in Writ A No.5698 of 2025 with emphasis on paras 5, 6, 17, 18 and 21.**

SUBMISSION BY RESPONDENTS

26. Dr. L. P. Mishra, per contra, assisted by Sri Shivam Tripathi, counsel for the KGMU strenuously argues that no violation of natural justice can be pleaded if, the petitioner has deliberately and consciously not participated in the enquiry proceedings. Dr. L.P. Mishra, strenuously argues as under :
 - A) Initially a preliminary enquiry was conducted for inquiring into the allegation/complaint received against the petitioner. It was only after, Executive Council duly deliberated upon the preliminary enquiry report and resolved to constitute a Disciplinary Committee.
 - B) The Disciplinary Committee finalized the Charge Sheet which was duly approved by the Executive Council. Whereafter, a copy of the same along with the documents referred in it were provided to the petitioner granting her an opportunity to file a reply.
 - C) However, despite various opportunity granted to the petitioner she never filed her reply on merits and had only submitted applications/representation dated 10.01.2020.
 - D) That after attending two meetings of the Disciplinary Committee the petitioner vide her letter dated 04.02.2020,

expressly stated that as the document being sought for are not being provided to her and she does not have confidence in the Disciplinary Committee, therefore she would not participate in the meeting of Disciplinary Committee scheduled on 06.02.2020. Admittedly, thereafter petitioner never appeared before the Disciplinary Committee, despite being regularly informed about the meetings.

- E) During enquiry the Registrar on behalf of the university authenticated the documents which were annexed as annexures of the charge sheet to be true and correct copies.
- F) Eventually the Disciplinary Committee submitted its enquiry report wherein based on the documentary evidences Charge No. 01 to 04 were found to be proved. When the enquiry report was placed before the Executive Council it resolved to issue show cause notice to the petitioner seeking reply to the Enquiry Report dated 11.03.2020. However, despite being given two opportunities to file a reply to Show Cause, she failed to file her reply. Whereafter, the petitioner was eventually dismissed from service by the resolution of the Executive Council dated 08.06.2020.

27. It is further argued that this court should consider the following :

- i. Whether by submitting the proposal for “*Genetic Screening of Hemoglobinopathies in pregnant women in the State of Uttar Pradesh*” directly by the petitioner violated the mandatory “ethical review” procedure as provided in the “*National Ethical Guidelines for Biomedical and Health Research involving Human Participants, 2017*” issued by Indian Council of Medical Research framed under regulation 7.22 of Indian Medical

Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 which were made in exercise of the powers conferred under section 20A read with section 33(m) of the Indian Medical Council Act, 1956 (102 of 1956), the Medical Council of India?

- ii. Whether the conduct of petitioner can be said to be of “unbecoming a teacher” or whether the behavior of petitioner was aggressive and ill towards authorities?
 - iii. Whether the disciplinary committee conducted the proceedings in accordance with law?
 - iv. Whether in view of undisputed factual matrix the petitioner is entitled to any relief in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India when she herself did not participate in the Disciplinary Proceedings rather refused to appear, not filing even reply to the Charge Sheet nor to the Enquiry Report?
 - v. Whether the denial of legal representative by disciplinary committee in its meeting held on 06.02.2020 by resolving not to provide to her legal expert suffers ipso facto from any illegality or caused any prejudice to her when she had already intimated that she would not be appearing in the disciplinary proceedings?
 - vi. Whether the charge-sheet issued to the petitioner can be said to be vague even when the specific acts of misconduct stands duly specified therein?
28. It is further argued that the petitioner had submitted the said proposal directly to NHM bypassing the proper channel and in utter derogation/violation of the mandatory statutory prescription (guidelines) issued by ICMR namely National Ethical Guidelines for Biomedical and Health Research

involving Human Participants, 2017, framed under regulation 7.22 of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 which were made in exercise of the powers conferred under section 20A read with section 33(m) of the Indian Medical Council Act, 1956 (102 of 1956), the Medical Council of India, which makes it necessary that all research proposals on biomedical, social and behavioral science research for health involving human participants, their biological material and data to be reviewed and approved by an appropriately constituted Ethics Committee of the Institute. The relevant guideline of ICMR namely National Ethical Guidelines for Biomedical and Health Research involving Human Participants, 2017 is being reproduced for the ease and kind perusal of this Hon'ble Court:

4.0 It is necessary for all research proposals on biomedical, social and behavioral science research for health involving human participants, their biological material and data to be reviewed and approved by an appropriately constituted EC to safeguard the dignity, rights, safety and well-being of all research participants. ECs are entrusted with the initial review of research proposals prior to their initiation, and also have a continuing responsibility to regularly monitor the approved research to ensure ethical compliance during the conduct of research. The EC should be competent and independent in its functioning.

The Regulation 7.22 of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 is being reproduced for the ease and kind perusal of this Hon'ble Court:-

7.22 Research: *Clinical drug trials or other research involving patients or volunteers as per the guidelines of ICMR can be undertaken, provided ethical considerations are borne in mind. Violation of existing ICMR guidelines in this regard shall constitute misconduct. Consent taken from*

the patient for trial of drug or therapy which is not as per the guidelines shall also be construed as misconduct.

As the work in the said proposal admittedly involved genetic screening of human participants prior approval of Institutional Ethics Committee should have been taken by the petitioner, more particularly when the proposal of the similar projects of Dr. Neetu Nigam was already approved by Ethics Committee, however in utter derogation of the same and without getting the project proposal reviewed and approved by the Institutional Ethics committee of the university the petitioner submitted her project proposal directly to the NHM which was accepted within 20 days and approval of 385 lacs was also granted the same observation w.r.t. requirement of clearance from ethics committee as per ICMR guidelines was also made in the meeting of 12 members committee constituted by Respondent No.02, to decide on the implementation plan of the project.

As such any interference by this Hon'ble Court if it leads to a situation of perpetuating the illegality in the case in hand submission of project directly to NHM without taking the mandatory course of statutory review of ethical committee, interference is not legally warranted. Reference is being laid upon:-

- a. State of Maharashtra & Ors. v. Prabhu **(1994) 2 SCC 481**
- b. A.M. Allison v. B.L. Sen & Ors. **(1956) 2 SCC 833**
- c. Gadde Venkateswara Rao v. Government of Andhra Pradesh **AIR 1966 SC 828**

29. Dr. Mishra further argues that the acts of the petitioner were unbecoming of a teacher and the petitioner was aggressive in ill

towards the authorities. To substantiate the said arguments, Dr. L. P. Mishra argues as under :

- i. petitioner instead of reporting her grievance to the HOD or any of the Higher Authorities of the university asking them to take any action against the said incumbents herself initiated an action of directly sending legal notices to Dr. Ashutosh Kumar and Dr. Neetu Nigam. The same act amounts to vitiating the academic ambience and administrative decorum/discipline of the university.
- ii. Moreover, a perusal of the application dated 20.05.2019, sent by the petitioner to the Vice Chancellor clearly shows that it was only related to pointing out the differences in the proposal of Dr. Neetu Nigam and petitioner. Till this stage, the Vice Chancellor had not taken any action against either of the parties acting on the letters given by them respectively. All the documents annexed along with the Charge Sheet have authenticated by Registrar, KGMU to be true copies, which proves the allegation. petitioner never appeared before the Disciplinary Committee after informing vide her letter dated 04.02.2020 that she would not appear before Disciplinary Committee.
- iii. Dr. Amita Pandey being the member of the committee for the implementation of the project was required to give her inputs on the said projects and as such she had gone through the corrected copy of the said project. However, the petitioner who had initially submitted the research project directly to NHM without getting it reviewed by the Ethics Committee, in order to get the project cleared early misbehaved with Dr. Pandey on telephonic call and asked her to send the project. A complaint of regarding the unprofessional of the petitioner was made to the vice

chancellor by Dr. Amita Pandey, vide her letter dated 14.06.2019.

30. With regard to the conduct of the proceedings by the disciplinary committee, Dr. L. P. Mishra argues as under :

- i. The Executive Council i.e. appointing authority, in its meeting held on 19.10.2019 after due deliberation on the preliminary enquiry report submitted vide letter dated 31.08.2019 resolved to authorize the Vice Chancellor to constitute a Disciplinary Committee against the petitioner under the provision 11.11 of the First Statute, 2011, KGMU. In this regard it is humbly submitted that section 25(8) of the KGMU Act, 2002, specifically grants power to the Executive Council to delegate such of its power as it deems fit to an officer any other authority of the university. The Disciplinary Committee so constituted under the authority given by the Executive Council constituted of the following members:-

- i. Vice Chancellor, KGMU (Chairman)
- ii. Hon'ble Justice (Retd.) Shri Shailendra Saksena (Member)
- iii. Hon'ble Justice (Retd.) Shri Anurag Kumar (Member)
- iv. Prof. Virendra Atam, Head, Department of Medicine (Member SC)
- v. Prof. A.K.Verma, Head, Department of Forensic Medicine (Member OBC)
- vi. Registrar, KGMU (Member Secretary)

Section 25 (8) of the KGMU Act, 2002 is being reiterated herein for the ease and kind perusal of this Hon'ble Court:-

“25 (8) The Executive Council may subject to any conditions laid down in the Statutes delegate such of its powers as it deems fit to an officer or any other authority of the University or to a Committee appointed by it.”

In view of Section 25(8) all the powers enumerated under Section 25 of the KGMU Act, 2002 have to be exercised by the Executive Council with only exception that any of these power can be delegated to any officer or any other authority of the university or to a committee appointed by it. Section 25(8) does not specially exclude the power of the university under statute 11.11 (1) of First Statute, 2011, KGMU.

Neither the KGMU Act, 2002 nor the First Statute, 2011, KGMU made there under contemplate any specific prohibition restraining the Executive Council to delegate its power under statute 11.11(1) of First Statute, 2011, KGMU.

The argument thus, with regard to constitution of Disciplinary Committee is illegal does not hold any water. On the other hand the petitioner cannot be said to be visited to any prejudice because of the member of the Disciplinary Committee as enumerated herein-above.

Even otherwise, it is no more Res Integra that it is not necessary that initiation of Disciplinary Proceedings and framing of charges be done only by authority competent to award the proposed penalty or that the enquiry should be conducted by such authority. It is only the punishment order which has to be passed by the appointing authority. Reference is being laid upon:-

- a. State of Jharkhand & ors. v. Rukma Kesh Mihsra, reported as 2025 SCC OnLine SC 676***
- b. Transport Commissioner, Madras-5 v. A. Rasha Krishna Moorthy (1995) 1 SCC 332***

- ii. Further, subsequently the Charge sheet prepared by the Disciplinary Committee was also duly deliberated and approved by the Executive Council in its meeting held on 18.12.2019.
- iii. So far as the issue of supplying documents along-with charge sheet is concerned it is submitted that the documents mentioned in the charge sheet were served along-with it to the petitioner. However, as noted by the Disciplinary Committee in its meeting held on 18.01.2020, it has been mentioned that documents along with the Charge Sheet have already given to delinquent employee and she was also given an opportunity to inspect the records in the office of the Registrar which she did on 20.01.2020. The fact that document relied upon in the Charge Sheet were provided to the petitioner was also reiterated by the Disciplinary Committee its meeting held on 06.02.2020.
- iv. Furthermore, while giving the application dated 10.01.2020, the petitioner did not demand documents served with the Charge sheet but demanded documents which were not relied by the disciplinary committee.
- v. The Hon'ble Supreme Court in catena of judgement has held that prosecution is only obliged to provide documents annexed along with the charge sheet and not the evidence which are not relied upon. For easy reference only following precedents is cited in the case of ***State of U.P & Ors v. Ramesh Chandra Manggalik (2002) 3 SCC 443***
- vi. Besides, the Disciplinary Committee in its meeting held on 18.01.2020 also recoded that relevant documents were already provided with the charge sheet. However, still permission was granted to the petitioner by the Disciplinary

Committee in the said meeting itself to inspect the record in the office of Registrar within next three days. In furtherance thereto, the petitioner inspected the documents and received some documents which even were not part of Charge Sheet.

- vii. Thereafter, in the meeting held on 06.02.2020. it was again reiterated that documents in support of the charge sheet have already been provided. Apart from this the petitioner was granted several opportunities (on 5 dates i.e 18.01.2020, 30.01.2020, 06.02.2020, 25.02.2020 and 02.03.2020) to file reply to the charge sheet however, instead of filing a reply on merits and refuting the charges the petitioner kept giving applications not related to the charges/ charge sheet after attending two meetings of the Disciplinary Committee the petitioner vide her letter dated 04.02.2020, expressly stated that as the document being sought for are not being provided to her and she does not have confidence in the Disciplinary Committee, therefore she would not participate in the meeting of Disciplinary Committee scheduled on 06.02.2020.
- viii. Admittedly, thereafter petitioner never appeared before the Disciplinary Committee, despite being regularly informed about the meetings. Subsequently, an application was filed by the presenting officer stating that charges are framed on the basis of documentary evidence and the Registrar on behalf of the university attested the documents before the disciplinary committee which were annexed as annexures of the charge sheet to be true and correct copies. Even at this stage the petitioner neither led any evidence nor filed her reply to the charge sheet.

- ix. Eventually, the Disciplinary Committee submitted its enquiry report wherein based on the documentary evidences Charge No. 01 to 04 were found to be proved.
- x. It is no more Res Integra that Delinquent not participating and not cooperating in Disciplinary Proceedings not entitled to challenge the proceedings and punishment on the ground of violation of principle of Natural Justice. Reference is being made on some of such judicial pronouncements :-

- a. Bank of India Vs. Apurba Kumar Saha (1994) 2 SCC 615*
- b. State Bank of India and Ors. Vs. Narendra Kumar Pandey (2013) 2 SCC 740*
- c. Major U.R. Bhatt Vs. Union of India AIR 1962 SC1344 [Constitution Bench]*

- xi. The Executive Council in its meeting held on 08.06.2020, has duly deliberated on the issue of Disciplinary Proceedings and had and has taken into consideration the Enquiry Report submitted by the Disciplinary Committee and also the fact that neither was any reply on the charges levelled given by the petitioner before the Disciplinary Committee nor any reply to the charges levelled have been tendered before it. It is only after taking into consideration all the aforesaid facts that it was resolved by the Executive Council that the conduct of the petitioner amounts to 'unbecoming of a teacher' and that she should be terminated from the service.
- xii. It is no more Res Integra that Disciplinary Authority is not required to record reason for imposing penalty while accepting the finding of the Enquiry Report. Reference is being made on some of such judicial pronouncements in the

case of *Boloram Bordoloi v. Lakhimi Gaolia Bank & Ors.*
reported as (2021) 3 SCC 806 [Constitution Bench].

31. Dr. L. P. Mishra strongly emphasised that in the facts of the case, this court should not exercise its extra ordinary jurisdiction under Article 226 of the Constitution of India, more so, when she herself did not participate in the proceedings and rather refuse to appear and did not even file reply to the charge-sheet nor to the enquiry report. It is further argued that several opportunities (on 18.01.2020, 30.01.2020, 06.02.2020, 25.02.2020 and 02.03.2020) to file reply to the charge sheet however instead of filing a reply on merits and refuting the charges, the petitioner kept filing applications not related to the charges/ charge sheet.
32. Dr. Mishra further argues that the petitioner vide her letter dated 04.02.2020, expressly stated that as the document being sought for are not being provided to her and she does not have confidence in the Disciplinary Committee, therefore she would not participate in the meeting of Disciplinary Committee scheduled on 06.02.2020. As per her statement made in the aforesaid letter, she did not participate in the meeting of Disciplinary Committee held on 06.02.2020 and thereafter she never appeared before the Disciplinary Committee despite notice of every meeting being sent to her. Even two female faculty members were also appointed as observers as per the decision of the Executive Council to accompany the petitioner to the meeting venue, however she never responded to their calls.
33. He further states that the petitioner did not give any application before Disciplinary Committee or Appointing Authority i.e. Executive Council, to change any member of the Disciplinary

Committee or to change it entirely. No allegation of any bias has been leveled except allegation of Sexual Harassment against the driver of one of the Disciplinary Committee members and two staff members of the Vice Chancellor's office vide her letter dated 28.01.2020 which allegations have been found to be false and not proved by the Women Harassment Prevention Committee formed in the light of Vishakha Committee Report. petitioner did not even appeared before the Women Harassment Prevention Committee so as to plead her case and lead any evidence in prove her allegation. As such it is submitted that the petitioner did not cooperate in the proceedings of the disciplinary committee and deliberately made all the attempts to delay the said proceedings.

34. Dr. Mishra draws attention of this court to the law laid down that the delinquent employee not cooperating and participating in the disciplinary proceedings cannot claim the violation of principal of natural justice.
35. With regard to the averments on account of non-providing the legal representative, Dr. L. P. Mishra argues as under :
 - i. In this regard; firstly, it is stated that on 06.02.2020 the petitioner did not appear before the Disciplinary Committee to press her application for being allowed to being a legal representative.
 - ii. Secondly, she even did not file the reply to the charge sheet for which she was always at liberty to consult any legal expert.
 - iii. Thirdly, the Disciplinary Proceedings have already been concluded and termination order dated 10.06.2020 has already been passed which is already under challenge. During the period intervening 10.01.2020 to 10.06.2020,

no step was been taken by the petitioner giving any challenge to the decision of Disciplinary Committee at any forum permissible under law.

- iv. In this regard it is stated that there is not a single judicial precedent wherein the punishment order would have been set-aside after conclusion of Disciplinary Proceedings and after inflicting punishment any court of law interfered with the punishment order by Judicial Review. Except such case where constitutional court found allegations not leviable.
- v. Most of the case decided by the Hon'ble Supreme Court relate to situation where not affording of legal assistance was challenged before the conclusion of Disciplinary Proceedings, except case or cases where Hon'ble Supreme Court itself found allegation made against the delinquent employes were baseless.
- vi. Thus, such a ground is not available, more so when the petitioner did not cooperate in the enquiry and even she did not appear to press her demand for affording of legal assistance.

36. Controverting the submissions with regard to the charge-sheet being vague, Dr. L. P. Mishra argues as under :

- i. A bare perusal of the Charge sheet make it abundantly clear at least, the following charges stands clearly spelled out without any ambiguity:-
 - (a) The petitioner submitted her proposal directly to NHM without first being reviewed.
 - (b) On complaints being made she made threatening Legal Notice to two faculty members, one of them being

senior to the petitioner, threatening to drag them in court of law.

- ii. Thus, it cannot at all be said that charges in chargesheet are so vague and indefinite so as to not enable the delinquent employee to submit her reply to charge sheet.
- iii. The charge sheet issued to petitioner contained the following statement :-

“(1) कृपया नोट करें कि उपरोक्त आरोपों के संबंध में आपको जो कुछ भी लिखित कथन प्रस्तुत करना है उस सब कथन को सम्मिलित करते हुए अपना लिखित कथन, आरोप पत्र प्राप्ति के 15 दिवस के अन्दर प्रस्तुत करें।

(2) कृपया सूचित हों कि यदि नियत समय में आपका लिखित कथन प्राप्त नहीं होता है तो यह निष्कर्ष निकाला जाएगा/presume किया जाएगा कि आपको अपनी बचत में कोई लिखित कथन नहीं करना है। कार्यवाही एकपक्षीय रूप से अग्रसारित की जाएगी।

(3) यह भी नोट करें कि यदि नियत तिथि व समय पर आप जाँच कमेटी के समक्ष उपस्थित नहीं होती हैं तो जाँच कार्यवाही आपकी अनुपस्थिति में अग्रसारित कर पूर्ण की जाएगी। इस संबंध में यदि आप कुछ मौखिक कथन करना चाहती है तो जाँच कमेटी के समक्ष प्रस्तुत कर सकती हैं।

4) जाँच कार्यवाही में जिन आरोपों को आपने स्वीकार नहीं किया है जिन तथ्यों पर जाँच कमेटी आवश्यक समझती है उस संबंध में साक्षियों के साक्ष अंकित किये जाएंगे। जो साक्षी प्रस्तुत किए जाएंगे उनके प्रतिपरीक्षण का आपको अवसर मिलेगा/प्राप्त होगा।”

- iv. Undisputedly petitioner did not submit a reply to the Charge Sheet on the charges levelled and on the other hand she in her representation/interim reply dated 10.01.2020 made following statement.

“ उपरोक्त से यह स्पष्ट है कि प्रार्थिनी को अपना उत्तर देने से पूर्व निम्न अधिकारियों/ व्यक्तियों से प्रतिपरीक्षा करना चाहती है

- 1. डॉ० आशुतोष कुमार, विभागाध्यक्ष, पैथालोजी विभाग, के. जी. एम. यू. लखनऊ।*
- 2. नीतू निगम, असिस्टेंट प्रोफेस, साइटोजेनेटिक्स लैब, सी. एफ. ए. आर.. के. जी. एम. यू. लखनऊ।*
- 3. डॉ० अमिता पाण्डेय, प्रोफेसर, आब्स एण्ड गाइनी विभाग, के. जी. एम. यू. लखनऊ”*

37. To sum up the submissions, Dr. L. P. Mishra argues that intervention under Article 226 is not permissible :

- i. The factum of the project proposal sent directly to NHM and without review of project. This is neither disputable nor has been disputed by the petitioner that at any stage including the writ petitioner - that it rather stands admitted by the petitioner as per contents of letter dated 05.03.2019 so written to Vice Chancellor, KGMU.
- ii. Thus, nothing is to be changed by any quantum of any further opportunity. It is more than well settled that if a scenario is not to be changed no interference under Article 226 of Constitution of India should be made. For instance kindly see the judgment:-

(a) ***Union of India Vs. Raghuwar Pal Singh (2018) 15 SCC 463***

(b) ***Aligarh Muslim University and others Vs. Mansoor Ali Khan (1996) 3 SCC 364***

- iii. Once the substance of allegation of conduct is neither disputed by any employee nor can be said to be disputable by any stretch of imagination, the interference under article 226 of the Constitution of India is not permissible.
- iv. The Hon'ble Supreme court in following cases has discussed the scope of judicial review in Disciplinary Proceedings in detail:-

a. ***State Bank of India v. A.G.D. Reddy (2023) 14 SCC 291***

b. ***Union of India & Ors v. P. Gunasekaran (2015) 2 SCC 610.***

- v. In view of the indisputable scenario that petitioner violated mandatory guidelines of ICMR issued in accordance with Regulation 7.22 of Indian Medical Council (Professional

Conduct, Etiquette and Ethics) Regulations, 2002; moreover the petitioner despite ample opportunities given did not participate in the Disciplinary Proceeding rather, she refused to appear before Disciplinary Committee. The petitioner also did not appear on 06.02.2020 to press her demand for affording legal assistance. Even she did not file reply to Charge Sheet and instead gave an representation/interim reply dated 10.01.2020 stating that she would file reply to Charge Sheet after cross examining the witness. Such a statement by itself is sufficient to deny any relief to petitioner.

- vi. Her conduct of leveling allegation of sexual harassment against a driver of the member of Disciplinary Committee and two employees of Vice Chancellors office which have been found to be baseless by the Women Harassment Prevention Committee formed in the light of Vishakha Committee Report, though the proceedings on such an allegation could not attain finality because the Disciplinary Committee could not proceed as punishment order of terminating the petitioner from service was already passed in the meanwhile.
- vii. The sweeping allegation of bias made by her in her letter dated 04.02.2020 is quite vague and indefinite.
- viii. No prejudice can be said to be caused to her because of action of Disciplinary Committee.
- ix. She also did not challenge denial of legal expert which itself cannot be ground for interfering with punishment order, more particularly, when the petitioner did not raise any challenge to such a decision of Disciplinary Committee before passing of punishment order dated 08.06.2020 nor

she appeared before Disciplinary Committee on 06.02.2020 to press her demands. For all these reasons no interference by way of extra ordinary jurisdiction under Article 226 of the Constitution of India can be exercised.

- x. Be that as it may , the charge that the petitioner submitted the research project without taking the course of review it by itself sufficient for imposing the major penalty.
 - xi. It view of what has been submitted hereinabove the present Writ Petition has no substance and deserves to be dismissed with the costs in favor of Respondents.
38. In support of his submissions, Dr. L. P. Mishra lays emphasis on the following observations on the judgments of the Supreme Court in the cases of :
- I. **State of Jharkhand & ors. v. Rukma Kesh Mihsra; 2025 SCC OnLine SC 676 with emphasis on para 21 to 27.**
 - II. **Transport Commissioner, Madras-5 v. A. Rasha Krishna Moorthy; (1995) 1 SCC 332 with emphasis on para 8.**
 - III. **Bank of India Vs. Apurba Kumar Saha; (1994) 2 SCC 615 with emphasis on para 4.**
 - IV. **State Bank of India and Ors. Vs. Narendra Kumar Pandey; (2013) 2 SCC 740 with emphasis on para- 19, 20, 21, 22, 23, 27 and 28.**
 - V. **Major U.R. Bhatt Vs. Union of India; AIR 1962 SC1344 [Constitution Bench] with emphasis on para-6**
 - VI. **Pepsu Road Transport Corporation Vs. Rawel Singh; (2008) 4 SCC 42 with emphasis on Para-14**
 - VII. **State Bank of India and Ors. Vs. Narendra Kumar Pandey; (2013) 2 SCC 740 with empasis on para 27**
 - VIII. **State Bank of India v. A.G.D. Reddy; (2023) 14 SCC 291 with emphasis on para 28 to 31.**
 - IX. **State of T.N & Ors v. Thiru K.V. Perumal & Ors.; (1996) 5 SCC 474 with emphasis on para 4**

- X. **The State Of Punjab Versus Nachhattar Singh(Dead) Thr. Lr.; Civil Appeal No. 7257 of 2022 (@SLP (CIVIL) NO. 16535/2018) decided on 13.10.2022 by Hon'ble Supreme Court.**
- XI. **Boloram Bordoloi v. Lakhimi Gaolia Bank & Ors.; (2021) 3 SCC 806 [Constitution Bench] with emphasis on para 11**
- XII. **Union of India & Ors v. P Gunasekaran; (2015) 2 SCC 610 with emphasis on para 12 to 20**
- XIII. **State Bank of India v. A.G.D. Reddy; (2023) 14 SCC 291 with emphasis on para- 42 to 43**
- XIV. **Union of India Vs. Raghuwar Pal Singh; (2018) 15 SCC 463 with emphasis on para 2 and 31**
- XV. **Aligarh Muslim University and others Vs. Mansoor Ali Khan; (2000) 7 SCC 529 with emphasis on para 21 to 26 and 34**
- XVI. **State of Maharashtra & Ors. v. Prabhu; (1994) 2 SCC 481 with emphasis on para para – 5**
- XVII. **A. M. Allison v. B.L. Sen & Ors.; (1956) 2 SCC 833 with emphasis on para – 17**
- XVIII. **Gadde Venkateswara Rao V. Government of Andhra Pradesh; AIR 1966 SC 828 with emphasis on para 19.**

FINDINGS

- 39. In the backdrop of the facts as recorded above leading to the filing of the present writ petition and the arguments raised by their respective counsels and recorded above, what is to be considered is whether the order passed against the petitioner terminating her service, is required to be judicially reviewed in exercise of power under Article 226 of the Constitution of India or not ?
- 40. It is clearly well settled that the scope of judicial review against the disciplinary proceedings is confined to errors in the decision making process or such errors which are in violation

of principles of natural justice are arbitrary or perverse in any manner. In the background of the same, in the present case, the charge-sheet in question, which was issued to the petitioner, was based upon a complaint made with regard to the project submitted by the petitioner and the subsequent conducts of the petitioner as narrated by the respective parties and recorded above. The charge-sheet in question, recorded in paragraph 8 onwards, alleged against the petitioner that one Dr. Ashutosh Kumar in his letter had apprised the Vice-Chancellor that the project submitted by the petitioner was similar to one submitted by by one Dr Neetu Nigam which may lead to allegation of plagiarism and may be perceived as a case of stealing intellectual rights, and for approval of the said project, pressure was built, which included sending of a legal notice, which amounted to a misconduct. The said charge, ex-facie, was vague in the sense that no specific allegation of misconduct were alleged against the petitioner, traceable to violation of Para-41 Rule 10.07(3). Even if it is presumed that they are traceable to the misconducts specified in the first statute in Para 41 Rule 10.07, the same had to be proved based upon the evidence, which were proposed to be led and as extracted in para 8 onwards in respect of each of the charge.

41. A perusal of the enquiry report, reveals that none of the evidences, proposed to be relied upon for proving the four charges levelled against the petitioner, were ever produced before the enquiry committee. It is admitted fact that Dr. Ashutosh Kumar never appeared to testify the genuineness of the letter dated 08.05.2019, the response of the petitioner and no oral evidence was led except that by the Registrar, who only deposed that the said letters were a part of the record. He never made any statement with regard to the averments of the said

letters referred to for proving the charge no.1. Similarly for proving the charge no.2, no oral evidence was led except that of the statement of the Registrar which again did not even refer to the contents of the letters referred to as proposed evidence, to establish the charge no.2. Similarly for the charge no.3, which alleged that the legal notice was served for exercising pressure, no evidence was led to prove the said charge and to the fact that the said legal notice in fact added any pressure on the Head of the Department or on Dr. Neetu Nigam. Similarly, for charge no.4, no evidence whatsoever was led by anyone, to carry on the charge, as levelled against the petitioner. Thus, while concluding the enquiry, no evidence whatsoever was led to prove the documents proposed to be used as an evidence for proving the charges levelled against the petitioner.

42. There is yet another fault in the entire process as admittedly two former Judges of this Court were part of the enquiry committee and the petitioner's request for legal help was neither permitted nor denied, did result in prejudice to the petitioner as, the allegations against the petitioner were relating to stealing of intellectual property as well as serving of a legal notice to exert pressure. As two Judges were part of the enquiry, the perception in the mind of the petitioner, who had no legal background, cannot be held to be unjustified and thus, the denial of legal representation through legally trained person by the disciplinary committee in its meeting held on 06.02.2020, cannot be justified and is ex-facie arbitrary.
43. In the present case, the mandate of Rule 7 of the 1999 Rules has not been followed scrupulously by the enquiry committee while concluding the enquiry against the petitioner. The contention of Dr. L. P. Mishra that once the employee had not

participated, would debar the petitioner from crying foul deserves to be rejected for the sole reason that even if the petitioner had not submitted a reply, the reply submitted by the petitioner could not amount to acceptance of charge and it was incumbent upon the enquiry committee to have concluded the enquiry in accordance with law specifically following Rule 7 of the Discipline and Appeal Rules and after following the principles of natural justice. The very fact that the enquiry committee still proceeded with enquiry despite the half baked reply of petitioner itself proves that there was no admission of guilt by petitioner.

44. As regards the submissions of the counsel for the respondents mainly on the ground that the conduct of the petitioner was unethical and contrary to the guidelines of ethics laid down in “National Ethical Guidelines for Biomedical and Health Research involving Human Participants, 2017” issued by Indian Council of Medical Research framed under regulation 7.22 of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 merits rejection as in the present case, there were no allegations against the petitioner of having violated any ethical guidelines involving any research of Human Participants in the charge-sheet. The petitioner had only submitted a project for its approval, which were subsequently approved also. Thus, the contention on that count of the respondents merits rejection and is accordingly rejected.
45. The next submission of Dr. L. P. Mishra that the conduct of the petitioner can be said to be ‘*unbecoming of a teacher*’ as there is no charge to that effect in the charge-sheet levelled against

the petitioner and thus, the court cannot go into the said question as is being canvassed by Dr. L.P. Mishra.

46. The next submission of Dr. L. P. Mishra that the petitioner is not entitled to any discretionary relief under Article 226 of the Constitution of India as she herself did not participate in the disciplinary proceedings and refused to appear and did not even file a reply to the charge-sheet or to the enquiry report, the same also cannot be accepted as in the present case, the petitioner with whatever legal understanding she had, had given a reply which cannot be termed as acceptance of charge and had sought legal assistance in view of the presence of two retired judges of this court in the enquiry committee. Thus, it cannot be said that she willingly did not participate in the disciplinary proceedings. The exercise of discretion, in the present case under Article 226 of the Constitution of India is flowing in favour of the petitioner on account of the enquiry not being conducted in accordance with the Rules and the petitioner suffering prejudice in the absence of providing legal experts help. Thus, the submission of Mr. Mishra on that count, cannot be accepted.
47. The next contention of Dr. L. P. Mishra, with regard to no prejudice being caused to the petitioner in the absence of permission to engage a legal representative as the petitioner had communicated that she would not be appearing in the disciplinary proceedings, once again cannot be accepted as, in the absence of any legal help, it would be fair to presume that petitioner having no legal background was overawed by the presence of two retired judges in the enquiry committee and as a natural reaction had asked for legal assistance, particularly in

the light of charges pertaining to stealing of intellectual rights,etc, which ought to have been provided.

48. During the course of argument, Dr. L. P. Mishra, the counsel for the respondent had extensively argued that the petitioner was guilty of sending the project directly to NHM, which was contrary to the standard operating procedures in the University and had also obtained the funds, which were released for the project in undue haste. The said argument, would not have any material bearing to the outcome of the writ petition as no charge to that effect has been levelled in the charge-sheet served to the petitioner nor any finding was recorded to that effect by the enquiry committee, as such, the said submission, would have no bearing to the outcome of the present writ petition.
49. The specific argument of Dr. L. P. Mishra, recorded in para 29 of the judgment with regard to the conduct of the petitioner with the other employees, unfortunately was not a part of the evidence and was never proved by any oral evidence in respect of the contents of even the letters, which were proposed to be relied upon as evidence to substantiate the charges.
50. In view of the reasoning recorded above, this court has no hesitation in holding that the entire proceedings initiated against the petitioner leading to the order of dismissal, suffers from vice of arbitrariness, not following the prescribed procedure and in violation of principles of natural justice and also arbitrarily discriminating the petitioner in defending herself in respect of the charges levelled. The decision making process adopted leading to the passing of dismissal order dated 10/09-06-2020 is clearly flawed and contrary to the Rules, as such, the same cannot be sustained and are quashed. The

matter is remanded to the stage of filing reply by the petitioner to the charge-sheet. The inquiry committee (may if required to be reconstituted), shall once again conduct the enquiry after submission of the reply by the petitioner to all the charges. It is made clear that in case the reconstituted enquiry committee comprises of any Member having legal expertise, the petitioner would also be permitted to engage and take legal help while participating in the enquiry proceedings. It is further directed that in the event, the petitioner does not file a reply, the enquiry would still be required to be held strictly in terms of the mandate of Rule 7 of the Disciplinary and Appeal Rules and should be concluded in accordance with law.

51. As the dismissal order dated 10/09-06-2020 has been set aside, the petitioner would be entitled to all the consequences of reinstatement with back wages. It will however, be open to the respondents to take work from the petitioner or not during the continuation of the disciplinary proceedings, if the respondent choose to carry forward the disciplinary proceedings against the petitioner in terms of the liberty given by this court.
52. The writ petition stands **allowed** in terms of the said order.

(Pankaj Bhatia,J.)

August 25, 2026

VNP/-